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and my

and my

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of the Interior

Jonathan Love May 1825

Jonathan Love May 1825
bought of Samuel Seely Esqr.
Director of the Board of Chosen
Freeholders of Cumberland County
Price four Dollars \$4.00

① New Jersey - Legislative
LAWS

OF THE

STATE OF NEW-JERSEY.

Revised and Published

UNDER THE AUTHORITY OF THE LEGISLATURE.



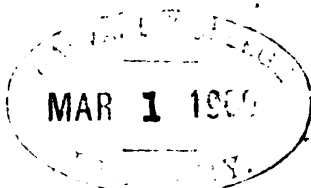
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CONSTITUTION

OF

NEW-JERSEY.

WHEREAS all the constitutional authority, ever possessed by the kings of Great-Britain over these colonies, or their other dominions, was, by compact, derived from the people, and held of them for the common interest of the whole society; allegiance and protection are, in the nature of things, reciprocal ties, each equally depending upon the other, and liable to be dissolved by the other's being refused or withdrawn. And whereas George the third, king of Great-Britain, has refused protection to the good people of these colonies; and, by assenting to sundry acts of the British parliament, attempted to subject them to the absolute dominion of that body; and has also made war upon them in the most cruel and unnatural manner, for no other cause than asserting their just rights; all civil authority under him is necessarily at an end, and a dissolution of government in each colony has consequently taken place.

AND WHEREAS in the present deplorable situation of these colonies, exposed to the fury of a cruel and relentless enemy, some form of government is absolutely necessary, not only for the preservation of good order, but also the more effectually to unite the people, and enable them to exert their whole force in their own necessary defence; and as the honorable the continental congress, the supreme council of the American colonies; has advised such of the colonies as have not yet gone into the measure, to adopt for themselves respectively such government, as shall best conduce to their own happiness and safety, and the well being of America in general; we, the representatives of the colony of New-Jersey, having been elected by all the counties in the freest manner, and in congress assembled, have, after mature deliberation, agreed upon a set of charter rights, and the form of a constitution in manner following, *videlicet*:

I. THAT the government of this province shall be vested in a governor, legislative council, and general assembly.

Government,
in whom vested.

II. That the said legislative council and assembly shall be chosen, for the first time, on the second Tuesday of August next; the members whereof shall be the same in number and qualifi-

Time of election of the first legislature.

cations as is herein after mentioned; and shall be and remain vested with all the powers and authority to be held by any future legislative council and assembly of this colony, until the second Tuesday in October, which will be in the year of our Lord, one thousand seven hundred and seventy-seven.

Time of annual elections of members for subsequent legislatures; their number, and qualifications.

III. That on the said second Tuesday in October, yearly and every year for ever, (with the privilege of adjourning from day to day as occasion may require) the counties shall severally choose one person to be a member of the legislative council of this colony, who shall be and have been, for one whole year next before the election, an inhabitant and freeholder in the county in which he is chosen, and worth at least one thousand pounds, proclamation money, of real and personal estate within the same county; that, at the same time, each county shall also choose three members of assembly; provided, that no person shall be entitled to a seat in the said assembly, unless he be and have been, for one whole year next before the election, an inhabitant of the county he is to represent, and worth five hundred pounds, proclamation money, in real and personal estate in the same county; that, on the second Tuesday next after the day of election, the council and assembly shall separately meet; and that the consent of both houses shall be necessary to every law, provided, that seven shall be a quorum of the council for doing business; and that no law shall pass, unless there be a majority of all the representatives of each body personally present and agreeing thereto. *Provided always*, That if a majority of the representatives of this province, in council and general assembly convened, shall, at any time or times hereafter, judge it equitable and proper, to add to or diminish the number or proportion of the members of the assembly for any county or counties in this colony, then, and in such case, the same may, on the principles of more equal representation, be lawfully done, any thing in this charter to the contrary notwithstanding; so that the whole number of representatives in assembly shall not, at any time, be less than thirty-nine.

When to meet.

The legislature empowered to equalise the representation.

Qualifications of electors for members of the legislature.

IV. That all inhabitants of this colony, of full age, who are worth fifty pounds, proclamation money, clear estate in the same, and have resided within the county, in which they claim a vote, for twelve months immediately preceding the election, shall be entitled to vote for representatives in council and assembly; and also for all other public officers that shall be elected by the people of the county at large.

Powers of the general assembly.

V. That the assembly, when met, shall have power to choose a speaker, and other their officers; to be judges of the qualifications and elections of their own members; sit upon their own adjournments; prepare bills to be passed into laws; and to empower their speaker to convene them, whenever any extraordinary occurrence shall render it necessary.

Powers of the legislative council.

VI. That the council shall also have power to prepare bills to pass into laws, and have other like powers as the assembly, and

CONSTITUTION OF NEW-JERSEY.

in all respects be a free and independent branch of the legislature of this colony; save only, that they shall not prepare or alter any money bill, which shall be the privilege of the assembly; that the council shall, from time to time, be convened by the governor or vice-president, but must be convened at all times when the assembly sits; for which purpose, the speaker of the house of assembly shall always, immediately after an adjournment, give notice to the governor, or vice-president, of the time and place to which the house is adjourned.

VII. That the council and assembly, jointly, at their first meeting, after each annual election, shall, by a majority of votes, elect some fit person, within the colony, to be a governor for one year, who shall be constant president of the council, and have a casting vote in their proceedings; and that the council, themselves, shall choose a vice-president, who shall act as such in the absence of the governor.

Governor,
how to be chosen.

VIII. That the governor, or, in his absence, the vice-president of the council, shall have the supreme executive power, be chancellor of the colony, and act as captain-general and commander in chief of all the militia, and other military force in this colony; and that any three or more of the council shall, at all times, be a privy council to advise the governor in all cases where he may find it necessary to consult them; and that the governor be ordinary or surrogate-general.

Powers of the
governor.

Privy council;
their number,
and of whom
to consist.

IX. That the governor and council, (seven whereof shall be a quorum) be the court of appeals in the last resort in all causes of law as heretofore; and that they possess the power of granting pardons to criminals after condemnation, in all cases of treason, felony or other offences.

Court of appeal, how
composed,
and their powers.

X. That captains, and all other inferior officers of the militia, shall be chosen by the companies in the respective counties; but field and general officers, by the council and assembly.

Militia officers,
how to be chosen.

XI. That the council and assembly shall have power to make the great seal of this colony, which shall be kept by the governor, or, in his absence, by the vice-president of the council, to be used by them as occasion may require; and it shall be called the great seal of the colony of New-Jersey.

Great seal, by
whom made.

XII. That the judges of the supreme court shall continue in office for seven years, the judges of the inferior court of common pleas in the several counties, justices of the peace, clerks of the supreme court, clerks of the inferior courts of common pleas, and quarter-sessions, the attorney-general and provincial secretary, shall continue in office for five years, and the provincial treasurer shall continue in office for one year; and that they shall be severally appointed by the council and assembly in manner aforesaid, and commissioned by the governor, or, in his absence, by the vice-president of the council. *Provided always,* That the said officers severally shall be capable of being re-appointed at the

Judges, attorney-general,
secretary,
treasurer, and
clerks, how
appointed,
and their duration in office.

Capable of being re-appointed,
and liable

to be dismissed
for misbehaviour.

end of the terms severally before limited; and that any of the said officers shall be liable to be dismissed, when adjudged guilty of misbehaviour by the council on an impeachment of the assembly.

Sheriffs and
coroners,
when and by
whom to be
elected.

XIII. That the inhabitants of each county, qualified to vote as aforesaid, shall, at the time and place of electing their representatives, annually elect one sheriff, and one or more coroners; and that they may re-elect the same person to such offices, until he shall have served three years, but no longer; after which, three years shall elapse before the same person is capable of being elected again. When the election is certified to the governor or vice-president, under the hands of six freeholders of the county for which they were elected, they shall be immediately commissioned to serve in their respective offices.

Constables
and commis-
sioners of ap-
peal, in cases
of taxation,
how to be cho-
sen.

XIV. That the townships, at their annual town-meetings for electing other officers, shall choose constables for the districts respectively; and also three or more judicious freeholders of good character, to hear and finally determine all appeals relative to unjust assessments in cases of public taxation; which commissioners of appeal shall, for that purpose, sit at some suitable time or times to be by them appointed, and made known to the people by advertisements.

Style of laws.

XV. That the laws of this colony shall begin in the following style, viz. *Be it enacted by the Council and General Assembly of this colony, and it is hereby enacted by the authority of the same.* That all commissions, granted by the governor or vice-president, shall run thus—"The colony of New-Jersey to A. B. &c. greeting;" and that all writs shall likewise run in the name of the colony; and that all indictments shall conclude in the following manner, viz. "Against the peace of this colony, the government and dignity of the same."

Commissions
and writs, how
to run.

Indictments,
how to con-
clude.

Criminals,
their privi-
leges.

XVI. That all criminals shall be admitted to the same privileges of witnesses and counsel, as their prosecutors are or shall be entitled to.

Estates of per-
sons destroy-
ing themselves
not to be for-
feited, but to
descend.

XVII. That the estates of such persons as shall destroy their own lives shall not, for that offence, be forfeited; but shall descend in the same manner as they would have done had such persons died in a natural way; nor shall any article, which may occasion accidentally the death of any one, be henceforth deemed a deodand, or in anywise forfeited on account of such misfortune.

Free exercise
of religion.

XVIII. That no person shall ever within this colony be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience; nor under any pretence whatsoever, compelled to attend any place of worship, contrary to his own faith and judgment; nor shall any person within this colony, ever be obliged to pay tithes, taxes or any other rates, for the purpose of building or repairing any church or churches, place or places of worship, or for the main-

tenance of any minister or ministry, contrary to what he believes to be right, or has deliberately or voluntarily engaged himself to perform.

XIX. That there shall be no establishment of any one religious sect in this province in preference to another; and that no protestant inhabitant of this colony shall be denied the enjoyment of any civil right, merely on account of his religious principles; but that all persons, professing a belief in the faith of any protestant sect, who shall demean themselves peaceably under the government as hereby established, shall be capable of being elected into any office of profit or trust, or being a member of either branch of the legislature, and shall fully and freely enjoy every privilege and immunity enjoyed by others their fellow subjects.

No establishment of one religious sect in preference to another.

XX. That the legislative department of this colony may, as much as possible, be preserved from all suspicion of corruption, none of the judges of the supreme or other court, sheriffs, or any other person or persons possessed of any post of profit under the government, other than justices of the peace, shall be entitled to a seat in assembly; but that, on his being elected and taking his seat, his office or post shall be considered as vacant.

What officers shall be excluded from holding seats in the general assembly.

XXI. That all the laws of this province, contained in the edition lately published by Mr. Allinson, shall be and remain in full force, until altered by the legislature of this colony, (such only excepted, as are incompatible with this charter) and shall be, according as heretofore, regarded in all respects by all civil officers, and others, the good people of this province.

What legislative acts to be in force.

XXII. That the common law of England, as well as so much of the statute law, as have been heretofore practised in this colony, shall still remain in force, until they shall be altered by a future law of the legislature; such parts only excepted, as are repugnant to the rights and privileges contained in this charter; and that the inestimable right of trial by jury shall remain confirmed, as a part of the law of this colony, without repeal, for ever.

Common and statute law of England, how far to be in force.

Trial by jury confirmed.

XXIII. That every person, who shall be elected as aforesaid, to be a member of the legislative council, or house of assembly, shall, previous to his taking his seat in council or assembly, take the following oath or affirmation, viz. "I, A. B. do solemnly declare, that, as a member of the legislative council or assembly (as the case may be) of the colony of New-Jersey, I will not assent to any law, vote or proceeding, which shall appear to me injurious to the public welfare of said colony; nor that shall annul or repeal that part of the third section in the charter of this colony, which establishes, that the elections of members of the legislative council and assembly shall be annual; nor that part of the twenty-second section in said charter, respecting the trial by jury; nor that shall annul, repeal, or alter any part or parts of the eighteenth or nineteenth sections of the same." And any person or persons, who shall be elected as aforesaid, is here-

Oath to be taken by the members of the legislature.

CONSTITUTION OF NEW-JERSEY.

by empowered to administer to the said members the said oath or affirmation.

Proviso.

Provided always, and it is the true intent and meaning of this congress, That if a reconciliation between Great-Britain and these colonies should take place, and the latter be again taken under the protection and government of the crown of Great-Britain, this charter shall be null and void, otherwise to remain firm and inviolable.

In Provincial Congress, New-Jersey,
Burlington, July 2, 1776.

By order of congress,

SAMUEL TUCKER, *President.*

Extract from the minutes,

WILLIAM PATERSON, *Secretary.*

DECLARATION OF INDEPENDENCE.

In congress, Thursday, July 4, 1776.

A DECLARATION by the representatives of the **UNITED STATES**
OF AMERICA, in congress assembled.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station, to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires, that they should declare the causes, which impel them to the separation.

We hold these truths to be self-evident; that all men are created equal; that they are endowed, by their Creator, with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.... That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments, long established, should not be changed for light and transient causes; and accordingly, all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms, to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity, which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation, till his

DECLARATION OF INDEPENDENCE.

assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature; a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the mean time, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders, which they should commit on the inhabitants of these states:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas, to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare, is an undistinguished destruction, of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connexions and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the UNITED STATES OF AMERICA, in GENERAL CONGRESS assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, FREE AND INDEPENDENT STATES; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great-Britain, is, and ought to be, totally dissolved; and that as FREE AND INDEPENDENT STATES, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which INDEPENDENT STATES may of right do. And for the support of this declaration, with a firm reliance on the protection of DIVINE PROVIDENCE, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

DECLARATION OF INDEPENDENCE.

The foregoing declaration was, by order of congress, engrossed and signed by the following members:

JOHN HANCOCK.

NEW-HAMPSHIRE.

Josiah Bartlett,
William Whipple,
Matthew Thornton.

MASSACHUSETTS-BAY.

Samuel Adams,
John Adams,
Robert Treat Paine,
Elbridge Gerry.

RHODE-ISLAND, &c.

Stephen Hopkins,
William Ellery.

CONNECTICUT.

Roger Sherman,
Samuel Huntington,
William Williams,
Oliver Wolcott.

NEW-YORK.

William Floyd,
Philip Livingston,
Francis Lewis,
Lewis Morris.

NEW-JERSEY.

Richard Stockton,
John Witherspoon,
Francis Hopkinson,
John Hart,
Abraham Clark.

PENNSYLVANIA.

Robert Morris,
Benjamin Rush,
Benjamin Franklin,
John Morton,
George Clymer,
James Smith,

PENNSYLVANIA.

George Taylor,
James Wilson,
George Ross.

DELAWARE.

Cæsar Rodney,
George Read.

MARYLAND.

Samuel Chase,
William Paca,
Thomas Stone,
Charles Carroll, of Car-
rollton.

VIRGINIA.

George Wythe,
Richard Henry Lee,
Thomas Jefferson,
Benjamin Harrison,
Thomas Nelson, jun.,
Francis Lightfoot Lee,
Carter Braxton.

NORTH-CAROLINA.

William Hooper,
Joseph Hewes,
John Penn.

SOUTH-CAROLINA.

Edward Rutledge,
Thomas Heyward, jun.,
Thomas Lynch, jun.,
Arthur Middleton.

GEORGIA.

Button Gwinnett,
Lyman Hall,
George Walton.

CONSTITUTION

OF THE

UNITED STATES.

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Legislative powers, where vested.

SEC. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

House of representatives, how chosen.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Their qualifications.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New-Hampshire shall be entitled to choose three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five,

Rule of apportioning representatives and direct taxes.

New-York six, New-Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North-Carolina five, South-Carolina five, and Georgia three.

Vacancies,
how filled.

To choose
their speaker,
&c. and to
have the sole
power of im-
peachment.

Senate, how
composed and
chosen.

Rotation of
senators.

Their qualifi-
cations.

President of
the senate.

Senate to
choose their
own officers.

Powers of the
senate.

Judgment on
impeachment,
how far to ex-
tend.

Elections of
senators and
representa-
tives, how re-
gulated.

Congress to
assemble an-
nually.

Powers and
duties of each
house.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SEC. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments: when sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each

shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Adjournment.

Sec. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Compensation, privileges, and incapacities of the senators and representatives.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

Sec. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Revenue bills to originate in the house of representatives.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Manner of passing bills, orders, and resolutions.

Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Powers of congress.

SEC. 8. The congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post-offices and post-roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;—and

To make all laws which shall be necessary and proper for car-

rying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Sec. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

Limitations of the powers of congress.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation, or other direct tax, shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another: nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Sec. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

Limitations of the powers of the individual states.

No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the nett produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

Sec. 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during

The executive power to be vested in a president,

(c)

Manner of
electing the
president and
vice-presi-
dent.

the term of four years, and, together with the vice-president, chosen for the same term, be elected, as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress: but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list, the said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

* Who may be
elected presi-
dent.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

On the death,
resignation,
&c. of the presi-
dent, the
powers and
duties of the
said office to
devolve on
the vice-presi-
dent.

In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

President's
compensation.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he

shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States."

His oath.

SEC. 2. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

Powers of the president.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Duties of the president.

SEC. 4. The president, vice-president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

How the president and all civil officers may be removed from office.

ARTICLE III.

SEC. 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Judicial power, how vested.

Extent of the
judicial power.

SEC. 2. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under thier authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states, between citizens of the same state, claiming lands under grants of different states; and between a state, or the citizens thereof, and foreign states, citizens or subjects.

Of the original
and appellate
jurisdiction of
the supreme
court.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the congress shall make.

The trial of
all crimes, ex-
cept in cases
of impeach-
ment, to be by
jury.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may, by law, have directed.

Treason,
what, and how
punished.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attained.

ARTICLE IV.

Full faith to be
given to the
public acts, re-
cords, &c. of
each state.

SEC. 1. Full faith and credit shall be given in each state, to the public acts, records, and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Privileges of
citizens to ex-
tend through
all the states.

SEC. 2 The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Fugitives from
justice to be
delivered up.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

Servants, &c.
to be surren-
dered on claim

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due.

New states
may be admit-
ted.

SEC. 3. New states may be admitted, by the congress, into this union; but no new state shall be formed or erected within

the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of, and make all needful rules and regulations, respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Congress may dispose of territory and other property of the United States.

SEC. 4. The United States shall guarantee to every state in this union, a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

Guarantee and protection of the states, by the union.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided, that no amendment, which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article: and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

Amendments to the constitution, how to be made.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution, as under the confederation.

This constitution, and the laws of the United States, which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; any thing in the constitution or laws of any state to the contrary, notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Former debts and engagements to be valid.

The constitution, laws, and treaties of the United States, to be the supreme law of the land.

Oath to support the constitution, by whom to be taken.

There shall be no religious test.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

When this constitution shall take effect.

CONSTITUTION OF

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord, one thousand seven hundred and eighty-seven, and of the independence of the United States of America, the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON, *President, and deputy from Virginia.*

NEW-HAMPSHIRE.

John Langdon,
Nicholas Gilman.

MASSACHUSETTS.

Nathaniel Gorham,
Rufus King.

CONNECTICUT.

William Samuel Johnson,
Roger Sherman.

NEW-YORK.

Alexander Hamilton.

NEW-JERSEY.

William Livingston,
David Brearley,
William Paterson,
Jonathan Dayton.

PENNSYLVANIA.

Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingersoll,
James Wilson,
Gouverneur Morris.

DELAWARE.

George Read,
Gunning Bedford, jun.,
John Dickinson,
Richard Bassett,
Jacob Broom.

MARYLAND.

James M^cHenry,
Daniel of St. Tho. Jemifer,
Daniel Carroll.

VIRGINIA.

John Blair,
James Madison, jun.

NORTH-CAROLINA.

William Blount,
Richard Dobbs Spaight,
Hugh Williamson.

SOUTH-CAROLINA.

John Rutledge,
Charles C. Pinckney,
Charles Pinckney,
Pierce Butler.

GEORGIA.

William Few,
Abraham Baldwin.

Attest.

WILLIAM JACKSON, *Secretary.*

IN CONVENTION, MONDAY, SEPTEMBER 17th, 1787.

RESOLVED,

THAT the preceding constitution be laid before the United States in congress assembled, and that it is the opinion of this convention, that it should afterwards be submitted to a convention of delegates, chosen in each state by the people thereof, under the recommendation of its legislature, for their assent and ratification; and that each convention assenting to, and ratifying the same, should give notice thereof to the United States, in congress assembled.

Resolved, That it is the opinion of this convention, that as soon as the conventions of nine states shall have ratified this constitution, the United States, in congress assembled, should

fix a day on which electors should be appointed by the states, which shall have ratified the same, and a day on which the electors should assemble to vote for the president, and the time and place for commencing proceedings under this constitution. That after such publication, the electors should be appointed, and the senators and representatives elected. That the electors should meet on the day fixed for the election of the president, and should transmit their votes, certified, signed, sealed, and directed, as the constitution requires, to the secretary of the United States, in congress assembled; that the senators and representatives should convene at the time and place assigned; that the senators should appoint a president of the senate, for the sole purpose of receiving, opening and counting the votes for president; and, that after he shall be chosen, the congress, together with the president, should, without delay, proceed to execute this constitution.

By the unanimous order of the convention.

GEORGE WASHINGTON, *President.*

WILLIAM JACKSON, *Secretary.*

IN CONVENTION, SEPTEMBER 17th, 1787.

SIR,

WE have now the honor to submit to the consideration of the United States, in congress assembled, that constitution which has appeared to us the most advisable.

The friends of our country have long seen and desired, that the power of making war, peace, and treaties, that of levying money, and regulating commerce, and the correspondent executive and judicial authorities, should be fully and effectually vested in the general government of the union; but the impropriety of delegating such extensive trust to one body of men is evident: hence results the necessity of a different organization.

It is obviously impracticable, in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all: individuals, entering into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw, with precision, the line between those rights, which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several states as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject, we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on

our minds, led each state in the convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession, which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every state, is not, perhaps, to be expected; but each will doubtless consider, that had her interest alone been consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish. With great respect, we have the honor to be, sir, your excellency's most obedient and humble servants.

GEORGE WASHINGTON, *President.*

By the unanimous order of the convention.

His Excellency the President of Congress.

THE UNITED STATES IN CONGRESS ASSEMBLED.

Friday, September 28th, 1787.

Present—New-Hampshire, Massachusetts, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Virginia, North-Carolina, South-Carolina, and Georgia, and from Maryland, Mr. Ross.

Congress having received the report of the convention lately assembled in Philadelphia—

Resolved unanimously,

THAT the said report, with the resolution and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a convention of delegates, chosen in each state by the people thereof, in conformity to the resolves of the convention, made and provided in that case.

CHARLES THOMSON, *Secretary.*

In pursuance of an act of the legislature of the state of New-Jersey, passed the 1st of November, 1787, the citizens of the said state elected delegates, who, on the eighteenth of December, 1787, unanimously assented to, and ratified the constitution of the United States.

Amendments

To the Constitution of the United States, ratified according to the provisions of the 5th article of the foregoing Constitution.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

How far the powers of congress shall be limited.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

Of the militia.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner: nor in time of war, but in a manner to be prescribed by law.

Of quartering soldiers.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Of unreasonable searches and seizures.

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Of crimes and indictments.

Private property not to be taken without compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed; which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be con-

Of criminal prosecutions.

fronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ARTICLE VII.

Of trial by jury
in suits at com-
mon law.

In suits of common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Of excessive
bail and fines,
and cruel pun-
ishments.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumera-
tion of certain
rights not to be
a denial of
others.

The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

Powers, not
delegated, to
whom reserv-
ed.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ARTICLE XI.

A state, how
far not liable
to be sued.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted: the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one

vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president: a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president, shall be eligible to that of vice-president of the United States.



L A W S

OF THE

STATE OF NEW-JERSEY.

1703.

AN ACT for regulating the purchasing of Land from the Indians.

ALLIS. 1.

Passed the 13th of December, 1703.

PAT. 1.

WHEREAS several ill disposed persons, within this province, have formerly presumed to enter into treaties with the Indians, or natives thereof, and have purchased lands from them, such person or persons deriving no title to any part of the soil thereof under the crown of England, or any person or persons claiming by, from, or under the same, endeavouring thereby to subvert her majesty's dominion in this country—

Preamble.

1. **BE IT THEREFORE ENACTED** by the Governor, Council, and General Assembly, now met and assembled, and by the authority of the same, That no person or persons whatsoever, for ever hereafter, shall presume to buy, take a gift of, purchase in fee, take a mortgage, or lease for life, or number of years, from any of the Indians or natives, for any tract or tracts of lands within this province, after the first day of December, one thousand seven hundred and three, without first obtaining a certificate, under the hand of the proprietors' recorder for the time being, certifying such person hath a right, and stands entitled to a propriety, or share in a propriety, such person or persons shall produce such certificate to the governor, for the time being, in order to obtain a license to purchase such quantities of land or number of acres from the Indians or natives aforesaid as such certificate mentions.

No person to purchase of the Indians, but those who have a right of propriety and obtain a license.

2. *Be it further enacted by the authority aforesaid,* That if any person or persons shall presume to buy, purchase, take gift, or mortgage, or lease, of any land, contrary to this present act, he or they so offending shall forfeit forty shillings, money of this province, for each acre of land so obtained; to be recovered by any person or persons, who shall prosecute the same to effect, by action of debt, in any court of record within this province, one half to the use of her majesty, her heirs and successors, toward the support of the government, and the other to the prose-

Any person purchasing, to forfeit forty shillings per acre, one half to support government, the other half to the prosecutor.

1709.

and be disabled to sue for the land.

Every person having purchased without a right under the crown, such purchase to be void,

unless such person obtain a grant from the proprietors in six months.

cutor. *Provided always*, that such purchasers, their heirs and assigns, shall for ever hereafter be incapable to hold plea for the said land in any court of common law or equity.

3. *And be it further enacted by the authority aforesaid*, That all and every person and persons whatsoever, that have bought, taken gift of, or have purchased land in fee, or taken mortgages, or leases for life, or number of years, of the Indians or natives, who is, and are not entitled to such tract or tracts of land, by virtue of a right or title to the same, derived from the crown of England, or from any person or persons claiming by, from, or under the same, such gifts, purchase, mortgage, lease or leases, is and are hereby declared, and for ever hereafter shall be taken, deemed and esteemed illegal, null and void; and such person or persons, their heirs and assigns, shall not be capable to hold plea for the same in any court of common law or equity, at any time hereafter, unless such person or persons, claiming under such Indian gift, purchase, mortgage, or lease, shall, within the space of six months after the publication of this act, take out a grant or grants from the present proprietors for the several tracts of lands so claimed by them respectively, on such conditions as shall be agreed upon with the said proprietors.

ALLIS. 7.
PAT. 2.

AN ACT for the explaining of grants and patents for lands made and executed by Philip Carteret and council, in the eastern division of this province, according to the true intent and meaning of grantor and grantee.

Passed the 4th of April, 1709.

Preamble.

WHEREAS several of her majesty's subjects in the first settlement of this province, formerly known by the name of East New-Jersey, repaired hither with designs of settling land for the support and maintenance of their families; and, applying themselves to the proprietors and their governors for the time being, obtained grants or patents for the same, which, by the intent and good meaning of grantor and grantees, were to assure and settle an estate of inheritance in fee-simple to the several persons, to whom the said grants were made, reserving certain quit-rents therein expressed: and, as the law of this province was then deemed and taken to be, the said grants were worded in pursuance of the said end, and so passed for several years; on which assurance many of her majesty's subjects have spent their whole lives and substance, and undergone extreme hardships and difficulties, in subduing a wilderness, supported only by this encouragement, that their posterity would reap the benefit of their labors; and finding, that through the ignorance of those infant times, the particle *OR*, in the habendum of their several deeds, was used in the stead of *AND*: wherefore, for the quieting of men's minds, and for the further assurance, that the firm and sure making of the said tenure, according to what was the true and real intent of the said grants, charters, patents, deeds or conveyances—

BE IT ENACTED by the Governor, Council and Assembly now met and assembled, and by the authority of the same, That all grants, charters, or patents for land, within this province, made and executed by Philip Carteret, deceased, formerly governor of this province, and his council, in which the particle OR is named or used in the habendum of the said deeds, grants, charters, or patents, shall be taken, deemed and esteemed as effectual in law, to all intents, constructions and purposes whatsoever, to the benefit of each and every party and grantee therein named, as if the same had been granted in these words, *to have and to hold to him the said A B his heirs and assigns for ever.*

1709-10.

The word OR in the habendum of patents granted by P. Carteret, to have the same force as the word AND.

AN ACT for dividing and ascertaining the boundaries of all the counties in this province.

ALLIS. 11.
PAT. 2.

Passed the 21st of January, 1709-10.

WHEREAS, by the uncertainty of the boundaries of the counties of this province, great inconveniencies have arisen, so that the respective officers of most of these counties cannot know the limits of them: for the preventing the same in time coming, and the better ascertaining the boundaries of them—

Preamble.

1. BE IT ENACTED by the Lieutenant-Governor, Council and General Assembly, and by the authority of the same, That in the eastern division, the county of Bergen shall begin at Constable's-hook, and so run up along the bay and Hudson's river to the partition point between New-Jersey and the province of New-York; and so run along the partition line between the provinces, and the division line of the eastern and western division of this province, to Pequaneck river; and so run down the said Pequaneck and Passaic river to the sound; and so to follow the sound to Constable's-hook, where it began.

Bounds of Bergen county.

2. That the county of Essex shall begin at the mouth of Rahway river, where it falls into the sound, and so run up the said Rahway river to Robeson's branch; thence west to the division line, between the eastern and western division aforesaid, and so to follow the said division line to Pequaneck river, where it meets Passaic river; thence down Passaic river to the bay and sound; thence down the sound to where it began.

Bounds of Essex.

3. The county of Somerset begins where Bound-Brook empties itself into Raritan river; thence down the stream of Raritan to the mouth of a brook known by the name of Lawrence's brook; thence running up the said Lawrence's brook to the great road that leads from Inian's ferry to Cranberry brook; thence south forty-four degrees westerly to Sanpinck brook; thence down the said Sanpinck brook to the said division line of the eastern and western division aforesaid, and so to follow the said division line to the limits of the abovesaid county of Essex; thence east along the line of Essex county to Green-Brook; and thence running down the said Green-Brook and Bound-Brook to where it began.

Bounds of Somerset.

1709-10.

Bounds of
Middlesex.

4. The county of Middlesex begins at the mouth of the creek that parts the lands of George Willocks, and the land that was formerly captain Andrew Bowne's, deceased; thence along the said captain Andrew's line to the rear of the said land; thence upon a direct course to Warn's bridge on the brook where Thomas Smith did formerly live; thence upon a direct course to the south-east corner of Barclay's tract of land that lies near Matchiponix; thence to the most southermost part of said tract of land, including the whole tract of land in Middlesex county; thence upon the direct line to Sanpinck bridge on the high road, including William Jones, William Story, Thomas Richman, and John Guyberson in Monmouth county; thence along the said road to Aaron Robins' land; thence westerly along the said Aaron Robins' line and James Lawrence's line to the line of the eastern and western division aforesaid, including the said Robins and Lawrence in Monmouth county; thence northerly along the said line to Sanpinck brook, being part of the bounds of the said Somerset county; thence following the lines of Somerset and Essex counties, and so to the sound and thence down the sound to Amboy point, and from thence to the creek, where it first began.

Bounds of
Monmouth.

5. The county of Monmouth begins at the mouth of the creek aforesaid, that parts the land of captain Andrew Bowne, deceased, and George Willocks; thence following the line of Middlesex county to the line of the eastern and western division aforesaid; thence southerly along the said division line to the sea; thence along the sea to the point of Sandy-Hook; thence up the bay to the aforesaid creek, where it first began.

Bounds of
Burlington.

6. The line of partition between Burlington and Gloucester county begins at the mouth of Pensauquin, alias Cropwell creek; thence up the same to the fork; thence along the southermost branch thereof, sometimes called Cole branch, until it comes to the head thereof, which is the bounds betwixt Samuel Lipencote's and Isaac Sharp's land; thence upon a straight line to the southermost branch of Little-Egg-Harbour river, including the said Sharp's land in Gloucester county; thence down the said branch and river to the mouth thereof; thence to the next inlet on the south side of Little-Egg-Harbour's most southerly inlet; thence along the sea coast to the line of partition between East and West-Jersey; thence along the said line of partition by Maidenhead and Hopewell to the northermost and uttermost bounds of the township of Amwell; thence by the same to the river Delaware; thence by the river Delaware to the first mentioned station.

Bounds of
Gloucester.

7. Gloucester county begins at the mouth of Pensauquin creek; thence up the same to the fork thereof; thence along the said bounds of Burlington county to the sea; thence along the sea coast to Great-Egg-Harbour river; thence up said river to the fork thereof; thence up the southermost and greatest branch of the same to the head thereof; thence upon a direct line to the head of Oldman's creek; thence down the same to Delaware river; thence up Delaware river to the place of beginning.

8. Salem county begins at the mouth of a creek on the west side of Stipson's island, commonly called Jecak's creek; thence up the same as high as the tide floweth; thence upon a direct line to the mouth of a small creek at Tuckahoe, where it comes into the southermost main branch of the fork of Great-Egg-Harbour river; thence up the said branch to the head thereof; thence along the bounds of Gloucester county to Delaware river; thence down Delaware river and bay to the place of beginning.

1713-14.

Bounds of Salem.

9. Cape-May county begins at the mouth of a small creek on the west side of Stipson's island, called Jecak's creek; thence up the said creek as high as the tide floweth; thence along the bounds of Salem county to the southermost main branch of Great-Egg-Harbour river; thence down the said river to the sea; thence along the sea coast to Delaware bay, and so up the said bay to the place of beginning.

Bounds of Cape-May.

Part of Essex is annexed to Somerset, by an act passed the 4th of November, 1741

The boundaries of Somerset are, in part, altered, by acts passed the 15th of March, 1713-14, the 14th of November, 1741, the 28th of March, 1749, and the 24th of November, 1790.

The boundaries of Middlesex are, in part, altered, by the acts of the 15th of March, 1713-14, and the 24th of November, 1790.

The boundaries of Monmouth are, in part, altered, by the act of the 15th of March, 1713-14.

Part of Burlington has been formed into a county called Hunterdon: part of Hunterdon, into a county called Morris; and part of Morris, into a county called Essex. See acts of the 11th of March, 1713-14, of the 15th of March, 1738-9, and of the 6th of June, 1753.

By an act passed the 19th of January, 1747, part of Salem has been formed into a county called Cumberland.

See acts of 24th November, 1790, and 5th March, 1796.

AN ACT for erecting the upper parts of the western division of New-Jersey into a county.

ALLIS. 25.
PAT. 4.

Passed the 11th of March, 1713-14.

WHEREAS the inhabitants of the upper parts of the said western division have, by their petition, set forth, that for many years last past, their frequent attending the several courts held at Burlington, being at a very great distance from most of their habitations, has been inconvenient and troublesome, as well as chargeable to the inhabitants of the said upper parts of the western division aforesaid, and to the great detriment and damage of the said inhabitants: for the removing of which inconveniencies, and making of the said people more easy for the time to come, it is humbly proposed and prayed that it may be enacted:—

Preamble.

AND BE IT ENACTED by the Governor, Council, and General Assembly, and by the authority of the same, That all and singular the lands, and upper parts of the said western division of the province of New-Jersey, lying northwards of, or situate above, the brook or rivulet commonly called Assanpiack, be erected into a

Hunterdon county first formed.

1713-14.

county, and it is hereby erected into a county, named, and from henceforth to be called, the county of Hunterdon; and the said brook or rivulet, commonly known and called by the name of Assanpinck, shall be the boundary line between the county of Burlington and the said county of Hunterdon.

ALLIS. 26.
PAT. 4.

AN ACT for settling the bounds between the counties of Somerset, Middlesex, and Monmouth.

Passed the 15th of March, 1713-14.

Line of So-
merset and
Middlesex.

1. *BE IT ENACTED by the Governor, Council, and General Assembly, and by the authority of the same,* That the boundary line between Somerset and Middlesex counties, shall be and begin where the road crosseth the river Raritan, at Inians' ferry, and run from thence along the said old road by Jedediah Higgs' house, leading towards the falls of Delaware, so far as the eastern division of this province extends.

Line of Mid-
dlesex and
Monmouth.

2. *And be it enacted by the authority aforesaid,* That the boundary line between Middlesex and Monmouth counties, shall be and begin at the mouth of the creek that parts the land of George Willocks, and the land that was formerly captain Andrew Bowne's, deceased; thence along the said captain Andrew Bowne's line, to the rear of the said land; thence upon a direct course to Warn's bridge, on the brook where Thomas Smith did formerly live; thence upon a direct course to the south-east corner of Barclay's tract of land, that lies near Matchiponix; thence to the most southermost part of said tract of land, including the whole tract of land in Middlesex county; thence upon the direct line to Assanpinck bridge, on the high road, including William Jones, William Story, Thomas Ruckman and John Guyberson, in Monmouth county; thence along the said road to Aaron Robins' land; thence westerly along the said Aaron Robins' and James Lawrence's line, to the line of the eastern and western division aforesaid, including the said Robins and Lawrence in Monmouth county.

Repeal of the
former act
concerning
the bounds of
these counties.

3. *And be it enacted by the authority aforesaid,* That the boundary lines between the said counties, settled by act of general assembly of this province, passed in January, one thousand seven hundred and nine, so far and no further, as the same is altered by this act, shall be, and is hereby, repealed, to all intents and purposes.

AN ACT for confirming of conveyances of lands, made and to be made by wills and powers of attorney, and declaring what exemptions of records and other things shall be holden and received for good evidence of estates of inheritance, and for transferring of uses into possession.

1713-14.

ALLIS. 27.
PAT. 6.

Passed the 17th of March, 1713-14.

WHEREAS on, and several years after, the first settlement of this colony, the great distance of plantations, and scarcity of inhabitants was such, that it was difficult to get more than two witnesses to be present at the signing, sealing and acknowledging of last wills and testaments, which induced the then legislature of the province of East-Jersey, now the eastern division of this province, in the year one thousand six hundred and eighty-two, to make a law declaring, that all wills in writing, attested by two credible witnesses, shall be of the same force to convey lands, as other conveyances: *And whereas*, pursuant to the said law, many wills have been made, bequeathing and devising lands, signed by the testator, and attested only by two subscribing witnesses:—

Preamble

1. BE IT THEREFORE ENACTED by the Governor, Council, and General Assembly, and by the authority of the same, That all last wills and testaments heretofore made in writing, signed by the testator, in presence of two subscribing witnesses, and proved according to the custom heretofore used, in either the eastern or western divisions of this province, by which any lands, tenements or hereditaments have been given, devised or bequeathed unto any person or persons whatsoever, every of the said last wills and testaments shall, at all times hereafter, be held, taken, deemed and esteemed as good, valid and sufficient title in the law, to all intents, constructions and purposes, as if the testator had conveyed the same away in his life-time, and shall, for ever, bar any person or persons claiming or to claim estate under any such testator, contrary to the true intent and meaning of such will or testament; and the said will being proved as aforesaid, and the books* of registers of either of the eastern or western divisions of this province in which they were entered, being proved as aforesaid, may be given, and shall be received in evidence, any law or custom to the contrary notwithstanding.

What a sufficient execution of last wills, in time past.

Register-books, where recorded, good evidence.

2. And be it enacted by the authority aforesaid, That all wills and testaments which hereafter shall be made in writing, signed and published by the testator, in presence of three subscribing witnesses, and regularly proved and entered upon the books of records or registers, in the secretary's office of this province, or any proper office for that purpose, shall and are hereby declared, and for ever hereafter shall be taken, accepted, deemed and esteemed sufficient to devise, bequeath and convey any lands, tenements, hereditaments, or other estates whatsoever, within this province, as effectually, to all intents, constructions and purposes whatsoever, as if the testator had conveyed the same away in his life-

What a good execution of a will in future.

* Certified transcript evidence. Sect. 42, act 13th June 1820.

1713-14.

Books in which they are registered, good evidence.

Copy of wills made in Great-Britain, &c., certified under seal, &c., good evidence.

Copy of wills, in any of the colonies, certified under seal, &c., good evidence.

All deeds, &c., made by letters of attorney, &c., recorded, where by lands have been sold, held good.

All lands hereafter sold by letters of attorney, first proved and recorded, held good.

time; and the books,* in which they are registered or recorded, may be given in evidence, and shall be accepted of, and be sufficient evidence, at all times and places, where the said wills or testaments may be requisite to be given in evidence, any law or custom to the contrary notwithstanding.

3. *And be it enacted by the authority aforesaid,* That the copies of any last will or testament whatsoever, heretofore made, or hereafter to be made, within any part of the kingdoms of Great-Britain or Ireland, by which any lands, tenements, hereditaments, or other estate within this province, are devised or bequeathed, certified under the seal of such office, where such will or testament is proved and lodged, may be given, and shall be received in evidence before any of the courts of judicature within this province, and be esteemed as valid and sufficient as if the original will or testament were then and there produced and proved.

4. *And be it enacted by the authority aforesaid,* That the copy of any will or testament, made in any other of her majesty's colonies, by which any lands, tenements, hereditaments, or other estate within this province is given, devised or bequeathed, being proved according to the custom of such colony, certified under the great seal of such colony, may be given, and shall be received, in evidence in any of the courts of judicature within this province, and be esteemed as valid and sufficient, as if the original will or testament were then and there produced and proved.

5. *And be it enacted by the authority aforesaid,* That all deeds, grants, sales, leases, assurances, or other conveyances whatsoever, heretofore made by virtue of letters of agency, powers of attorney, or other powers or authorities whatsoever, that have been entered on the public books of records of this province, or the public books of records of the eastern or western divisions thereof, whereby any lands, tenements or hereditaments, whatsoever, within this province, have been granted, sold, conveyed, assured, released or transferred, to any person or persons, pursuant to such powers and authorities whatsoever, shall be, and are hereby declared, as good, valid and sufficient title in the law, to all intents, constructions and purposes whatsoever, unto the said grantees, and to their heirs and assigns, as if the consituent or constituents had then and there sold and conveyed the land or lands, and had executed deeds, (according to the true intent and meaning of such grants, deeds or conveyances) which said grants, deeds or conveyances shall be of force against, conclude and bind all and every the constituents, employers, grantors of such powers and authorities, and their and all and every of their heirs, and all and every other person or persons claiming or to claim estate from or under them, or any of them, severally and respectively; and all lands, tenements, or other hereditaments, that, for the time to come, shall be sold, conveyed or disposed of, by virtue of such powers or authorities as aforesaid, such powers shall be first proved and entered upon the public records, after which all

* See note, page 7.

grants and conveyances made, pursuant to the powers thereby granted, shall be deemed, taken and esteemed as good, valid and sufficient titles against all and every the constituents, employers and grantors of such powers and authorities, against all claiming or to claim estate under them severally and respectively aforesaid, as if the constituent or constituents had then and there sold and conveyed the same land or lands.

1719.

6. *And be it enacted by the authority aforesaid,* That the exemplification of any deeds or writings relating to estates, real or personal, within this province, proved and certified under the city seal of London or Edinburgh, in the kingdom of Great-Britain, or under the seal of the city of Dublin, in the kingdom of Ireland, or under the great seal of any of her majesty's colonies in America, and any of the public books of records or registers of this province, or of either of the divisions thereof, shall be received in evidence in any court of record within this province, and shall be esteemed as sufficient as if the originals were then and there produced and proved.

Exemplifications of deeds, from Great-Britain, Ireland or the colonies, and books of record in this province, good evidence.

7. *And be it enacted by the authority aforesaid,* That all and every person or persons, to whom the use or uses of any tract or tracts of land within this province have been sold, given, limited, granted, released or conveyed by deed, grant, or any other legal conveyance whatsoever, or that shall hereafter be granted by any deed or conveyance whatsoever, such grantees, their heirs and assigns, shall be deemed, taken and esteemed, to be in as full and ample possession of such lands, tenements and hereditaments, to all intents, constructions and purposes, as if such grantees, their heirs and assigns, were possessed thereof by solemn livery of seisin and possession, any usage or custom to the contrary notwithstanding.

Conveyance of the use of land transfers possession.

8. *Provided always,* That nothing in this act shall be construed to extend to make good, valid and effectual, any fraud or forgery, made or used in or about any powers of agency, or letter of attorney, or other deeds, writings, or records, last wills and testaments, or any bargain and sale, or other conveyances of any estate of inheritance, grounded upon such fraudulent or forged powers of agency, or letter of attorney, or other deeds, writings or records, and last wills and testaments.

This act not to save any fraud or forgery.

AN ACT for running and ascertaining the line of partition or division between the eastern and western divisions of the province of New-Jersey, and for preventing disputes, for the future, concerning the same; and for securing to the general proprietors of the soil of each of the divisions, and persons claiming under them, their several and respective possessions, rights, and just claims.

ALLIS. 49.
PAT. 7.

Passed the 27th of March, 1719.

WHEREAS many doubts, debates, and controversies, have arisen, concerning the boundaries, or line of partition, between that part of this province of New-Jersey, now commonly called

Preamble.

1719.

and known by the name of the western division of the province of New-Jersey, and that part of said province, now commonly called and known by the name of the eastern division of the province of New-Jersey, which have proved a great obstruction to the settlement and improvement of the said province, and will, if they continue, prove a very great hindrance to the further settling and improving thereof, and of dangerous consequence to the peace and tranquillity of the government and inhabitants of the same. *And whereas* nothing can be more effectual to prevent debates and controversies, that may otherwise hereafter arise concerning the same, and for settling and quieting the minds of all persons concerned, than the fixing the said line of partition on a just, solid, and lasting foundation. *And whereas* a certain line, mentioned in an indenture quinti-partite, dated the first day of July, in the year of our Lord one thousand six hundred and seventy-six, in the twenty-eighth year of the reign of king Charles the second, made and executed by and between sir George Carteret, of Sarum, in the county of Sarum, knight and baronet, of the first part; William Penn of Rickmansworth, in the county of Hertford, esquire, of the second part; Gawen Lowrie of London, merchant, of the third part; Nicholas Lucas of Hertford, in the county of Hertford, maltster, of the fourth part; and Edward Billinge of Westminster, in the county of Middlesex, gentleman, (in whom the inheritance and fee-simple of that undivided part, share and moiety, of the province of New-Jersey, which did formerly belong to the right honourable John lord Berkeley, baron of Stratton, was by good and sufficient conveyances in the law then vested) of the fifth part; was, by the persons here before mentioned, parties to the aforesaid indenture quinti-partite, then sole owners of the whole province of New-Jersey, meant, intended, and agreed to be the line of partition or division of the eastern part of this province, from the western part thereof; which said line was meant, intended, and understood by all the persons before mentioned, parties to the said indenture quinti-partite, to be a straight and direct line run from the most northerly point or boundary of the province of New-Jersey, on the northermost branch of the river Delaware, unto the most southerly point of the east side of a certain inlet, harbour or bay, on the sea coast of the province of New-Jersey, commonly called and known by the name of Little-Egg-Harbour.

1. BE IT THEREFORE ENACTED *by the Governor, Council and General Assembly of this province, and it is hereby enacted and declared by the authority of the same,* That the said line, that is to say, a straight and direct line from the most northerly point or boundary of this province of New-Jersey, on the northermost branch on the river Delaware, unto the most southerly point of a certain beach or island of sand, lying next and adjoining to the main sea, on the north side of the mouth or entrance of a certain inlet, bay or harbour, commonly called and known by the name of Little-Egg-Harbour, is and shall for ever hereafter, remain and be the line of partition and division, betwixt the eastern and western di-

How the partition line between East and West New-Jersey is to run.

vision of this province: and all the lands, islands and waters, within this province, lying and being to the eastward of the said line, is, and shall be, and for ever hereafter shall remain and be the eastern part, share and division of this province: and all the lands, islands and waters, within this province, lying and being to the westward of the said line before mentioned and described, is, and shall be, and for ever hereafter shall remain and be the western part, share and division, of this province.

1710.

2. *And whereas* the said line of partition, so agreed on as aforesaid, has, notwithstanding such agreement, not been as yet really and indeed run, nor the places through which it ought to pass, discovered or made known, although attempts have been made by persons appointed by agreement, between some of the proprietors of the soil of each of the said divisions, and lines have been run for that purpose, in some parts of this province; which lines have been sometimes supposed to run through such parts of this province, as the said line agreed on by the parties to the indenture quinti-partite aforesaid, should or ought to have run; and which, nevertheless, there is great reason to believe, have been variant, and different from the true line of partition agreed on as aforesaid; by reason of which, several tracts, parcels, and quantities of land, have been taken up by the general proprietors of the soil of the eastern divisions of this province, on the west-erly side of the true partition line, agreed on as aforesaid; and several tracts, parcels, and quantities of land, have been taken up by the general proprietors of the soil of the western division of this province, on the easterly side of the said line of partition; many of which tracts, parcels and quantities of land, have been conveyed away and disposed, as well by the general proprietors of the soil of the eastern division of this province, as by the said general proprietors of the soil of the western division of this province; and which are now, by sufficient conveyances in the law, vested in the present possessors thereof, who have made several settlements, and great improvements upon the same. *In order therefore* that the present possessors may be secured in the enjoyment of the fruits of their labour and industry, and that equal and impartial justice may be done to the general proprietors of each of the said divisions, as far as the present circumstances of things will admit: *Be it enacted by the authority aforesaid,* That when the line, enacted and declared by this act, to be the line of partition between the eastern and western divisions of the province, shall be actually run straight and direct from any one of the terms, limits, or end of the said line, unto the other term, limit, or end of the same; and the several places within this province, through which it shall pass, be discovered and made known; that then there shall be, as near as conveniently may be, a survey or computation made of the whole, and full amount of all such tracts, parcels and quantities of land, as have been taken up, patented, surveyed, held or possessed, by the proprietors of the eastern division of New-Jersey, or in their right, by persons claiming under them, to the westward of the said line, hereby enacted and declared to be the line of partition aforesaid, so as the utmost limits and boundaries of all or any the said tracts and

The said line to be run.

Computation to be made of the lands taken up by the eastern proprietors to the westward of said line, within a certain other line;

1719.

which lands
are confirmed
to the said eastern proprietors and purchasers under them.

A computation
to be made
of the amount
of the lands
taken up by
the West-Jersey proprietors on the east side of the partition line;

parcels of land, do not extend further to the westward of the herein and hereby enacted and declared line of division, than to a certain line heretofore run and marked out, in the year of our Lord one thousand six hundred and eighty-seven, by George Keith, then surveyor-general of that part of this province, formerly called and known by the name of the province of East New-Jersey, beginning at the most southerly point of a certain beach or island, lying next and adjoining to the main sea, to the northward of a certain bay, inlet or harbour, lying on the sea coast of this province, commonly called or known by the name of Little-Egg-Harbour; and running thence according to the natural position, on a north north-west fifty minutes more westerly course to the south-westerly corner of a certain tract of land, lying to the westward of the south branch of Raritan river, heretofore granted by the proprietors of the eastern division of this province, to John Dobie, and commonly called and known by the name of Dobie's plantation; thence along the rear of the said Dobie's plantation, and along the rear of the other tracts of land and plantations, as they were heretofore patented or surveyed in right of the proprietors of the eastern division of this province, until it intersects that part of the north branch of Raritan river, which descends from a fall of water, commonly called and known by the Indian name of Allamitug; then running from that point of intersection, up the branch or stream, to the fall of Allamitug: all which said tracts, parcels and quantities of land, plantations and settlements, so taken up, patented, surveyed, possessed, settled or improved, lying and being to the westward of the line of partition, herein before enacted and declared to be the line of partition and division, between the eastern and western divisions of this province, and not extending further to the westward of the said line of partition, than is hereby before limited and expressed, shall be and remain to the patentees, vendees, possessors or claimers of the same, their heirs and assigns, for ever, without any let, hindrance, molestation or eviction, by any of the general proprietors of the western division of this province, their heirs or assigns, for ever. And the said patentees, vendees, possessors or claimers, of any the said tracts, parcels or quantities of land aforesaid their heirs and assigns for ever, shall have, hold, occupy, possess and enjoy, all and any the said tracts, parcels and quantities of land, as fully, to all intents, constructions and purposes whatsoever, as if all or any the said tracts, parcels or quantities of land, had been so taken up, patented, surveyed, bought, claimed or possessed in the eastern division of the province of New-Jersey, on the east side of the said line herein before enacted, to be the line of partition between the eastern and western divisions of this province, and not otherwise; any law, usage, or custom, to the contrary, in anywise, notwithstanding.

3. *And be it enacted by the authority aforesaid,* That there shall, as near as conveniently may be done, a survey or computation be made of the whole and full amount of all such tracts, parcels and quantities of land as have been taken up to the eastward of the herein and hereby enacted line of partition, by or in right of the proprietors of the western division of this province,

1719.

and a survey or computation be made of the whole and full amount of all such tracts, parcels and quantities of land as have been taken up to the westward of the herein and hereby enacted line of partition, by or in right of the proprietors of the eastern division of this province: and in case such quantity or number of acres of the said land, so surveyed or taken up by, or in right of the proprietors of both divisions as aforesaid, be equal, the same is hereby enacted and declared to be vested in the several possessors, takers up or claimers of the same, their heirs and assigns for ever, as fully and amply, to all intents and purposes whatsoever, as if the same had been so taken up, possessed or claimed in the respective divisions of this province, for which the same was taken up, and not otherwise: but in case it shall so happen, that upon the aforesaid computations, the total sum or amount of all the tracts, parcels and quantities of land taken up by, or in right of the proprietors of the eastern division, to the westward of the line of partition, herein and hereby established and declared, shall be found to exceed the quantity or number of acres contained within that tract herein before described and allowed to have been taken up by, or in right of the proprietors of the western division, to the eastward of the said line of partition; then and in such case, there shall be cut off from all or any of those tracts and parcels of land, which have been surveyed or taken up by, or in right of the proprietors of the eastern division, either on the west or east side of the said line of partition (excepting such as have been taken up in right or on account of a first dividend, or the proportion of ten thousand acres to one propriety, or twenty-fourth part of said division and quit-rent lands) or out of any unsurveyed lands in the said eastern division, in such tracts as shall be thought fit, the full quantity of such exceeding, in the most just and equal manner; which lands, so taken, shall be an equivalent to the proprietors of the western division, and shall be held by them, or such of them as shall take up the same, and by their heirs and assigns for ever, notwithstanding any survey formerly made thereon, and notwithstanding the said lands, or some of them, may prove to be situate on the eastern side of the partition line hereby enacted and declared as fully and amply, to all intents and purposes, as if the same had never before been surveyed to any other person, or were situate on the western side of the partition line herein before enacted, any law, usage or custom to the contrary, in anywise, notwithstanding. But in case it shall so happen, that upon the aforesaid computation, the total sum or amount of all the tracts, parcels and quantities of land, taken up by, or in right of the proprietors of the western division, to the eastward of the line of partition herein and hereby established and declared, shall be found to exceed the quantity or number of acres contained within that tract herein before described and allowed to have been taken up by, or in right of the proprietors of the eastern division, to the westward of their said line of partition; then, and in such case, there shall be taken and cut off from all or any of those tracts and parcels of land, which have been surveyed or taken up by, or in right of the proprietors of the western division, either on the east or west side of the said line

if the land taken up on the wrong side by each be equal, it is to be held in fee by each.

East-Jersey proprietors to give an equivalent if they have too much.

West-Jersey proprietors having too much, to give an equivalent to East-Jersey proprietors.

1719.

of partition, in right or on account of a fourth dividend, or a fourth taking up, the proportion of five thousand acres for each whole propriety or hundredth part of the western division, or out of any unsurveyed lands within the said western division, in such tracts as shall be thought fit, the full quantity of such exceeding, in the most just and equal manner; which lands, so taken, shall be an equivalent to the proprietors of the eastern division, and shall be held by them, or such of them as shall take up the same, and by their heirs and assigns for ever, notwithstanding any survey formerly made thereon, and notwithstanding the said lands, or some of them, may prove to be situate on the western side of the partition line, herein enacted and declared, as fully and amply, to all intents and purposes, as if the same had never before been surveyed to any other person, or were situate on the eastern side of the partition line herein before enacted, any law, usage or custom to the contrary hereof, in anywise, notwithstanding.

No tract settled and improved to be taken in such equivalent, but the possessors to enjoy the same.

4. *Provided always, and be it enacted by the authority aforesaid,* That no tract or tracts of land, on which any settlement and improvement hath been made, shall be taken as aforesaid, or applied to make good such exceeding, or any part thereof; but that all and every such tract and tracts or parcels of land, taken up by any of the proprietors of the western division, on the east side of the aforesaid line of partition, on which tract or tracts any settlement or improvement is made, shall be held by the possessors or owners thereof, their heirs and assigns, as fully and amply, to all intents and purposes whatsoever, as if such tract and tracts had been taken up on the west side of the said line of partition, and not otherwise. And all and every such tract and tracts, or parcels of land, taken up by any of the proprietors of the eastern division, on the west side of the aforesaid line of partition, on which tract or tracts any settlement or improvement is made, shall be held by the possessors or owners thereof, their heirs and assigns, as fully and amply, to all intents and purposes whatsoever, as if such tracts had been taken up on the east side of the said line of partition, and not otherwise.

Any eastern proprietor may locate his land with western rights and hold it.

5. *Provided also,* That if any proprietor of the eastern division, from whom any lands are taken to make good the equivalent to the proprietors of the western division, as aforesaid, have or shall procure, within two years after the same are taken, to make good the equivalent aforesaid, a proprietary right to any unsurveyed lands within the western division of this province, such proprietor of the eastern division may retain and keep to himself such lands as otherwise he might, by this act, have been obliged to surrender to the western proprietors, by laying on the same a good proprietary right to the same quantity of land in the western division of this province, any thing herein contained to the contrary notwithstanding.

Proprietors of West-Jersey allowed the same privilege

6. *Provided also,* That if any proprietor of the western division, from whom any lands are taken up to make good an equivalent to the proprietors of the eastern division, as aforesaid, have or shall procure, within two years after the same are taken to make good the equivalent aforesaid, a proprietary right to any

unsurveyed lands within the eastern division of this province, such proprietor of the western division may retain and keep to himself such lands as otherwise he might, by this act, have been obliged to surrender to the eastern proprietors, by laying on the same a good proprietary right to the same quantity of land in the eastern division of this province, any thing herein contained to the contrary notwithstanding.

1719.

7. *And be it enacted by the authority aforesaid,* That upon the computation made, in case it shall happen that the quantity of lands taken up by, or in right of the proprietors of the western division, on the east side of the herein and hereby enacted line of partition, does exceed the quantity of lands taken up by, or in right of the proprietors of the eastern division, on the west side of the herein and hereby enacted line of partition, the surveyor-general of the eastern division, or his deputy, and commissioners or managers for the same, herein after appointed, or the major part or survivor of them, shall forthwith survey, allot, take up and ascertain such exceeding, on the lands out of which the same is, by this act, directed to be taken, and shall cause to be recorded a certificate, under their hands, how and in what manner they have done the same, in the secretary's office of this province, and surveyor-general's office of the eastern division, there to be in public view, and shall send a true copy thereof to the council of proprietors of the western division of this province. And upon the computation made, in case it shall happen that the quantity of lands, taken up by, or in right of the proprietors of the eastern division, on the west side of the herein and hereby enacted line of partition, does exceed the quantity of lands taken up by, or in right of the proprietors of the western division, on the east side of the herein and hereby enacted line of partition, the surveyor-general of the western division, or his deputy, and commissioners or managers for the same, herein after appointed, or the major part or survivor of them, shall forthwith survey, allot, take up and ascertain such exceeding, on the lands out of which the same is, by this act, directed to be taken; and shall cause to be recorded a certificate, under their hands, how and in what manner they have done the same, in the secretary's office of this province, and in the surveyor-general's office of the western division, there to be in public view, and shall send a true copy thereof to the proprietors of the eastern division of this province: after which certificate, recorded and returned as aforesaid, the respective proprietors, who had right to take up such exceeding, shall be, and are hereby for ever barred of claiming any other lands in right of such exceeding, any thing herein contained to the contrary notwithstanding.

On computation made, if the eastern proprietors have taken too much, the equivalent to be surveyed by the eastern surveyor-general and recorded.

Western proprietors having too much, an equivalent to be made the eastern.

8. *And, the more equally to preserve to each division the same quantity of land, which falls to it by the line of division or partition between the eastern and western divisions of this province, be it enacted by the authority aforesaid,* That all the tracts of land, which have been formerly patented or surveyed to the proprietors of the eastern division, and to others claiming under them, to the westward of the said line of partition, as also all such

Lands to the westward of said line surveyed to the eastern proprietors, with the equivalent, to be a part of East-Jersey;

1719.

and those on
the east side
to belong to
West-Jersey.

lands as shall or may fall to them as an equivalent out of the western division, and to the westward of the said partition line, shall be taken, construed, and for ever hereafter deemed to be a part, share and portion of the eastern division of this province. And all the tracts and parcels of land which the proprietors of the western division, or persons claiming under them, shall, in pursuance of this act, and according to the true intent and meaning thereof, fall on the east side of the said line of partition, excepting any small parcels which shall be remote, and wholly severed from the body of the said division, shall be taken, construed, and for ever hereafter deemed to be a part, share and portion, of the western division of this province; of which all bodies, corporate and politic, and all other persons, are to take notice and govern themselves accordingly; any thing herein contained to the contrary notwithstanding.

Surveys made
before such
computation
liable to be
vacated, ex-
cept one hun-
dred acres to
one person.

9. *And*, for the more effectual doing of justice to such proprietors, who shall be entitled to take up any lands, either in the eastern or western divisions of this province, for or by reason of any deficiency, or exceeding of the lands mentioned to be taken up within the eastern division of this province, by or in right of the proprietors of the western division of the same; it is further enacted by the authority aforesaid, That from and after the publication of this act, until such time as it shall be determined, in the manner before in this act directed, of what number of acres such defect or exceeding of the quantities of land herein before mentioned, does consist, no land shall be surveyed or taken up (above the quantity of one hundred acres in one tract, and by one person, and this only among the inhabitants and settlements) within either of the divisions of this province. And in case any person or persons, whatsoever, shall survey or take up any land, contrary to the true intent and meaning hereof, all and every such survey and surveys, and taking up, is and are hereby declared to be so far void, that any of the persons entitled to take up any lands in either of the divisions aforesaid, as his part and share of the equivalent, before mentioned, due to him, may survey and take up any such land, and shall thereupon be as fully and absolutely entitled to hold the same to him, his heirs and assigns, for ever, as if no such former survey had been made thereon.

Surveyors-ge-
neral of East
and West-Jer-
sey to keep an
office at Perth-
Amboy and
Burlington.

10. *And whereas* the surveys of lands, and the quantities held thereby, in this province, have frequently been uncertain and difficult to be discovered, by reason of the office of surveyor-general has not been duly established, and regularly kept, within the respective divisions: *Be it therefore enacted by the authority aforesaid*, That the surveyor-general of the eastern division shall, by himself or his lawful deputy, hold a public office in the city of Perth-Amboy, for all the eastern division of this province; and the surveyor-general of the western division shall, by himself or his lawful deputy, hold a public office in the town of Burlington, for the western division of this province; in which offices respectively, shall be carefully entered and kept, the surveys of all lands which shall hereafter be made within this province; and

All surveys to
be recorded
and declared
good evidence
&c.

such entries shall be of record, and may be pleaded as evidence in any of his majesty's courts of judicature within this province. And the said surveyor and surveyors-general is, and are hereby authorized and empowered to collect, demand, receive, sue for, and recover, from all persons whatsoever, within this province, all books of surveys, general charts, maps and draughts of lands heretofore made by any public surveyor or surveyors, for the lands within his or their district or districts, which may be of general use for proving the rights of the proprietors, or of persons claiming under them, to any tracts or parcels of land surveyed and taken up within this province; and the same shall be safely lodged, and kept in the said respective offices within the division within which the lands, whereunto such books, charts, maps and draughts, do belong, are respectively situate, excepting such books of surveys as he shall recover, belonging to the eastern division, which, upon recovery, he shall forthwith deliver into the recorder's office of the said division, there to be kept for public use and view. *Provided always*, That he re-deliver with all convenient speed, such of them as are the property of any particular person, to the person whose property they are, after he or they, the surveyor or surveyors aforesaid, have either taken authentic copies thereof, or recorded them in their books. And the said surveyor or surveyors-general, shall give security to his excellency brigadier Hunter, our present governor, or to the governor or commander in chief for the time being, for the use of the proprietors of each respective division, and their successors, in the sum of one thousand pounds of lawful money of Great-Britain, for his and their delivering up to his and their respective successor and successors therein, all books of surveys, general charts, maps and draughts, which he shall have received and recovered as aforesaid, and which have not otherwise been directed to be delivered as aforesaid, and the books he or they shall have kept during the execution of his or their respective offices.

11. *And whereas* great inconveniencies have happened by the making and not recording of surveys, whereby many have not only got lands surveyed, which have been formerly surveyed, not knowing of any former survey, but have settled and made great improvement of the same, and have been afterwards ousted thereof; for the remedying whereof for the future, *it is hereby enacted and declared by the authority aforesaid*, That all surveys heretofore made, the certificates whereof are in the hands of any of the inhabitants of this province, or any of the neighboring provinces, which are not within two years, and that all surveys heretofore made, the certificates whereof are in the hands of people living beyond seas, which are not within three years, after the publication hereof, duly recorded, either in the recorder's office, or in the surveyor-general's record, of the respective division in which such lands are surveyed, be for ever hereafter void and of none effect; and any succeeding survey, duly made thereof and recorded, shall be as good and sufficient as if no former survey had been made.

1719.

The surveyors general authorized to sue for maps, draughts books, &c.

Such as belong to private persons to be re-delivered when copied.

Surveyors-general to give security.

Time limited to record surveys, or be void.

1738-9.

ALLIS. 109.
PAT. 12.

AN ACT for erecting the upper parts of the county of Hunterdon, in the western division of New-Jersey, into a county.

Passed the 15th of March, 1738-9.

Preamble.

WHEREAS the inhabitants of the upper parts of the said county of Hunterdon, have, by their petitions, set forth, that for many years last past, their frequent attending the several courts held in Trenton, being at a very great distance from most of their habitations, hath been and still is inconvenient and troublesome, as well as chargeable, to the inhabitants of those upper parts, to their great detriment and damage; for the removing of which it is humbly proposed and prayed that it may be enacted—

Morris county
formed.

1. AND BE IT ENACTED by the Governor, Council, and General Assembly, and by the authority of the same, That all and singular the lands, and upper parts of the said Hunterdon county, lying to the northward and eastward, situate and lying to the eastward of a well known place in the county of Hunterdon, being a fall of water in part of the north branch of Raritan river, called in the Indian language, or known by the name of Allamatonck, to the north-eastward of the north-east end or part of the lands called the New-Jersey society lands, along the line thereof crossing the south branch of the aforesaid Raritan river, and extending westerly to a certain tree, marked with the letters L M, standing on the north side of a brook emptying itself into the said south branch, by an old Indian path to the northward of a line to be run north-west from the said tree to a branch of Delaware river, called Muskonetkong, and so down the said branch to Delaware river; all which said lands being to the eastward, northward and north-westward of the abovesaid boundaries, be erected into a county, and it is hereby erected into a county, named and from henceforth to be called Morris county, and the said bounds shall part and from henceforth separate and divide the same from the said Hunterdon county.

ALLIS. 123.
PAT. 13.

AN ACT to annex part of the county of Essex to the county of Somerset, and to ascertain the bounds thereof.

Passed the 4th of November, 1741.

Preamble.

WHEREAS part of the lands, herein after described, have, for many years, been deemed and esteemed to be part of the county of Somerset, and the inhabitants thereof have paid the taxes laid on them as such; and, from its situation and contiguity to the said county, it is highly reasonable that it should be annexed thereto, for the conveniency of the said inhabitants; therefore it is humbly proposed and prayed, by the said inhabitants, that it may be enacted; and—

BE IT ENACTED *by the Governor, Council and General Assembly, of the province of New-Jersey, and it is hereby enacted by the authority of the same,* That from and after the publication hereof, the lines and bounds of the said county of Somerset shall be as follows, videlicet, beginning at the south branch of Raritan river, where the reputed division line between East and West Jersey strikes the same, along the rear of Raritan lots, until it meets with the north branch of said river; thence up the same to a fall of water, commonly called Allamatonck; from thence along the bounds of Morris county to Passaick river; thence down the same to the lower corner of William Dockwrae's two patents on the same river; and thence, on a straight line, south-easterly, to the head of Green-brook; and thence down the same brook to Bound-brook; thence down said Bound-brook to the place where it empties itself into Raritan river; thence down Raritan river to the place where the road crosseth said river at Inian's ferry; from thence along said old road, which leads by Jedediah Higgins' house, towards the falls of Delaware, until it intersects the division line aforesaid; thence along the said division line to the south branch of Raritan river, aforesaid, where it first began; any act or acts of the general assembly of this province, or any article, clause, or thing in them or any of them contained, to the contrary thereof, in anywise notwithstanding.

1747-8.

Bounds of the county of Somerset.

AN ACT for erecting the southern parts of the county of Salem, in New-Jersey, into a separate county, and ascertaining the boundaries of the several precincts therein.

ALLIS. 153.
PAT. 13.

Passed the 19th of January, 1747-8.

WHEREAS the inhabitants of the southern parts of the county of Salem have, by their petition, set forth, that by reason of the large extent of said county, and the gaol and court-house being seated so near one end of the same, where all the public business is transacted, it hath been inconvenient and very prejudicial to many of his majesty's loyal subjects, inhabitants thereof: for remedying of which inconveniencies—

Preamble.

BE IT ENACTED *by the Governor, Council, and General Assembly of this colony, and it is hereby enacted by the authority of the same,* That all and singular the lands within the following bounds, videlicet, beginning in the county of Salem, at the mouth of Stow-creek, and running up the same unto John Brick's mills, leaving the said Brick's mills within the county hereby erected; then continuing still up Stow-creek branch to the house where Hugh Dunn now dwells, leaving said Hugh Dunn within the new county; and from the said Hugh Dunn's house, upon a straight line, to Nathan Shaw's house, leaving said Nathan Shaw's house within the new county; and then on a north-east course, until it intersects the Pilesgrove line, leaving Pilesgrove within Salem county; then along the said line till it intersects the line which divides the counties of Gloucester and Salem; then running south-east-

Bounds of Cumberland county.

1794.

Divided into
six precincts,
the names and
bounds of
each.

ward, down Gloucester line, unto the boundaries of Cape-May county; then bounded by Cape-May county to Delaware-bay; and then up Delaware-bay to the place of beginning; shall be erected; and the said lands are hereby erected into a county, named and henceforth to be called by the name of Cumberland.

2. *And be it enacted by the authority aforesaid,* That the said county of Cumberland shall be divided into six precincts, by the names and boundaries following, to wit, three on the north side, and three on the south side of Cohansey creek; the names of the precincts, on the north side of the said creek, shall be, Greenwich, Hopewell and Stow-creek; and the names of those on the south side of the said creek shall be, Fairfield, Deerfield and Maurice river precincts: Greenwich precinct shall be bounded on the south by Cohansey creek, on the east by a small creek that proceeds out of Cohansey creek, called Mill-creek; then up the said Mill-creek to the fork; then up the easternmost branch till it intersects the road that leads from Greenwich to Cohansey bridge, to a corner tree of Job Shepard's land; then running up the said Job Shepard's land to a corner of a tract of land surveyed to Edmund Gibbon, standing on Barnagate hill; then westerly along Gibbon's line to a corner of Francis Bruster's land; then along Bruster's land to the road that leads from Greenwich to John Brick's mill; then up the said road till it intersects a run called Mackernipper's run; then down the said run till it falls into Stow-creek, and bounded by Stow-creek to Delaware-bay; then along Delaware-bay to the place of beginning. The other two are divided by the road that leads from Greenwich to Nathan Shaw's; Hopewell on the east, and Stow-creek on the west side of the said road as it now runs.

The precincts on the south side of the said Cohansey creek, are divided as follows:

Maurice river precinct shall contain all that tract of land, lying on the east side of prince Maurice's river, within the said county of Cumberland.

Fairfield to begin at the mouth of Cohansey creek, and to run up the same to Parvin's branch; then up the said branch to the head; and from thence, on a direct line, to the head of Chatfield's swamp; then down the same to Lebanon branch; then north-east till it intersects prince Maurice's river; then down the same to Delaware-bay; then up Delaware-bay to the mouth of Cohansey creek aforesaid.

Deerfield to be bounded on the west by Cohansey creek, on the south by Fairfield precinct, aforesaid; on the east by Maurice river precinct; and on the north by Pilesgrove.

ALLIS. 188.
PAT. 14.

AN ACT to ascertain the line and bounds between the counties of Somerset and Morris.

Passed the 28th of March, 1749.

WHEREAS, by an act passed in the fifteenth year of his present majesty's reign, entitled "An act to annex part of the

Preamble.

county of Essex to the county of Somerset, and to ascertain the bounds thereof," it appears, that the division line between the counties of Somerset and Morris, was to be from the falls of Allamatonock to Passaick river; but not mentioning what course, nor where to fix upon said river, it remains uncertain and very prejudicial to the inhabitants, and a great obstruction to the officers of the said counties, in the discharge of their duties: for remedy whereof—

1753.

BE IT ENACTED by the Governor, Council, and General Assembly, and it is hereby enacted by the authority of the same, That from and after the publication hereof, the division line between the counties of Somerset and Morris, shall be as follows, videlicet, beginning at a fall of water commonly called Allamatonock Falls, and also mentioned in the before recited act; and from thence on a straight line, in a course east and by north, as the compass now points, to the main branch of Passaick river; and so down the said river, as the before recited act directs, any thing herein, or in any other act to the contrary thereof notwithstanding.

The division line ascertained.

AN ACT for erecting the upper parts of Morris county, in New-Jersey, into a separate county, to be called the county of Sussex, and for building a court-house and gaol in each of the said counties.

ALLIS. 194.
PAT. 16.

Passed the 8th of June, 1753.

WHEREAS the inhabitants of the upper parts of Morris county have, by their petition, set forth, that for some years last past, their frequent attending the several courts held at Morris-Town, which is in the lower parts of the said county, and at a very great distance from most of the inhabitants of the upper parts, which makes it inconvenient as well as chargeable to them, to attend said courts; and as by said petition, as well as by a petition from the inhabitants of the lower parts of said county, it is humbly proposed and prayed, that said county should be divided, and that the inhabitants should have the liberty of building a court-house and gaol in each; it is therefore enacted—

Preamble.

AND BE IT ENACTED by the Governor, Council, and General Assembly, and by the authority of the same, That all and singular the lands and upper parts of said Morris county, north-west of Muskonetong river, beginning at the mouth of said river, where it empties itself into Delaware river, and running up said Muskonetong river, to the head of the great pond; from thence north-east to the line, that divides the province of New-York and said New-Jersey; thence along the said line to Delaware river aforesaid; thence down the same to the mouth of Muskonetong, the place of beginning: all which said lands, contained within the above boundaries, be erected into a county, and they

Bounds of Sussex county.

1755.

are hereby erected into a county, named and from henceforth to be called the county of Sussex: and the said Muskonetkong river, so far as the county of Hunterdon bounds on it, shall be the boundary line between that county and said county of Sussex; and the said Muskonetkong river, and a north-east line from the head of said pond, shall be the boundary line between Morris county and the said county of Sussex.

ALLIS. 205.
PAT. 16.

AN ACT to preserve the navigation of the rivers and creeks within the colony of New-Jersey.

Passed the 20th of August, 1755.

Preamble.

WHEREAS the transportation of timber, plank, boards, hay, and other things to market by water, is a great conveniency to the inhabitants of this colony, and the preservation of those advantages are highly worthy the care of the legislature—

No obstructions or banks to be made across any navigable water.

1. BE IT ENACTED by the Governor, Council, and General Assembly of the said colony, and it is hereby enacted by the authority of the same, That if any person or persons, without first obtaining an act of the general assembly for that purpose, shall, after the publication of this act, erect any dam, bank, sluice, or other thing, which shall obstruct, or prevent the free and uninterrupted navigation of any river, creek, or stream of water, within this colony, which is now used for the navigation of boats or flats, or for the transportation of hay, plank, boards, or timber, or shall fall any trees across such creek, or throw brush or other filth in any part thereof, between the mouth thereof and the uppermost place thereon, now, or of late used as a landing, he, she, or they, so offending, shall severally forfeit the sum of five pounds, proclamation money; to be recovered by action of debt, before any one justice of the peace of the said colony, at the suit of any person who will prosecute the same to effect, to the sole use of the prosecutor, with costs of suit; and the person or persons, so offending, shall also, at his or their proper costs and charge, immediately remove the bank, dam, sluice, or other thing so erected, or the trees so fell across such branch, or brush or other rubbish thrown into the same; and the continuance of such dam, bank, sluice or other thing so erected, or obstructing the navigation as aforesaid, after a request made to such person or persons, who erected the same, to remove the same; and, on neglect or refusal, it shall be esteemed a public nuisance.

Penalty.

Any one may remove such obstructions.

2. And be it enacted by the authority aforesaid, That it shall be lawful for any person or persons, to enter into the said creek, river or stream of water, and to lay on shore on the banks, all such rubbish as shall obstruct the navigation thereof, to the least damage to the owner of the land, that may be.

All bridges and dams before made, may be upheld in the same manner as usual.

3. And be it further enacted by the authority aforesaid, That it shall and may be lawful, to keep up and repair any bridge or bridges on public highways; and also all dams or banks erected

and finished before the publication of this act, where the said dam or bank does not raise the water so as to overflow the lands of any other person or persons, except those who so erected or own the said dam, and does not injure or damage any other person or persons whatsoever, by any ways or means whatever; and to build such other bridges where public highways are, or shall be hereafter laid out, as are or shall be hereafter necessary to be laid out, over any river, creek or brook, as a public highway; and there be left in the channel thereof, a vacancy not less than eighteen feet between the piers or piles of the said bridges hereafter to be erected; and that all rafts and floats of hay, boards, planks and timber, shall have free passage through the mill-dams now erected, where they have usually of late had that liberty and conveniency.

1762.

4. *Provided always*, That nothing in this act shall extend to deprive any person of his right of action, for any damage accruing to such person, by the keeping up or erecting any dam or bank, or to justify any person in repairing or keeping up any dam that shall raise the water so much as to overflow the lands of, or any ways endamage, any other person or persons than he, she, or they, who hath so built, or shall own the said dam.

This act not to bar any right of action.

See "Act to preserve the free navigation," &c., passed 9th February, 1815.

A SUPPLEMENTARY ACT to the act, entitled, "An act to preserve the navigation of the rivers and creeks within the colony of New-Jersey."

ALLIS. 251
PAT. 16.

Passed the 25th of September, 1762.

WHEREAS the act, entitled, "An act to preserve the navigation of the rivers and creeks within the colony of New-Jersey," though beneficial in its nature, by making provision for freeing the navigation of the said rivers and creeks from the obstructions within the same, yet, not making the like provision for cutting down and removing from the banks of said rivers and creeks, such trunks and limbs of trees, and such like obstructions, that hang over and impede the navigation of the same, renders it necessary to supply that omission; for remedy whereof—

Preamble.

BE IT ENACTED by the Governor, Council, and General Assembly of the said colony of New-Jersey, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any person or persons whomsoever, to cut down and remove from the banks of any river or creek, within this colony, all such trunks and limbs of trees, and such like obstructions, which shall hang over, or anyways interrupt the navigation of the same, so as such obstructions be removed, with as little detriment to the owners of the lands where the same may happen, as the nature of the case will admit, for the benefit of the navigation.

Obstructions hanging over navigable waters may be removed.

1767.

ALLIS. 256.
PAT. 17.**AN ACT** for the better and more effectual ascertaining the boundaries between the counties of Salem and Cumberland.

Passed the 7th of December, 1763.

Preamble.

WHEREAS the lines of partition between the counties of Salem and Cumberland being unsettled, the board of justices and freeholders of each county, pursuant to a late act of assembly, did choose and appoint commissioners for that purpose, which said commissioners did meet, and, on running the said lines, found them in nowise to answer the expectation of either county; and the said commissioners conceiving it not in their power to settle the said lines in such a manner as to be conclusive to both counties: therefore, to prevent any inconvenience that may happen for the future—

Boundary line
between Sa-
lem and Cum-
berland.

BE IT ENACTED by the Governor, Council and General Assembly, and it is hereby enacted by the authority of the same, That the bounds between the counties of Salem and Cumberland, shall be as followeth, videlicet, beginning at the middle of the mouth of Stow-creek, and running up the middle of the same, opposite to the mills that formerly belonged to John Brick, esquire; then continuing still up the middle of Stow-creek branch, opposite to the house of Hugh Dunn; then on a direct line to said Hugh Dunn's house, leaving said Dunn's house in Cumberland county; and from said house, on a straight line, north fifty-one degrees, fifteen minutes east, ninety-four chains, to the house of Azel Pierson, formerly Nathan Shaw's, leaving said Pierson's house in Cumberland county; from thence north-east, until it intersects the line of Pilesgrove township or precinct, in distance three hundred and five chains; and thence along Pilesgrove line, as was marked by the said commissioners, south forty-seven degrees east, until it intersects the middle of the water-course of prince Maurice's river, below the mouth of Muddy-run; from thence up said river, bounding on the middle of the water-course thereof, to the foot of Scotland branch; then up said branch, bounding on the middle of the water-course, to Gloucester line; which said river, lines and creek as aforesaid, shall for ever hereafter be taken, deemed and esteemed the bounds of partition between the aforesaid counties of Salem and Cumberland; any law or usage to the contrary thereof notwithstanding.

ALLIS. 290.
PAT. 18.**AN ACT** to divide the town of Shrewsbury, and annex parts thereof to the towns of Freehold and Upper-Freehold.

Passed the 24th of June, 1767.

Preamble.

WHEREAS a number of the inhabitants of the town of Shrewsbury, in the county of Monmouth, by their several petitions, have set forth, that they have long labored under many and great difficulties, by reason of the large extent of the said town: for remedying whereof—

1. *BE IT ENACTED by the Governor, Council and General Assembly of this colony, and it is hereby enacted by the authority of the same,* That all that part of the said town of Shrewsbury, beginning at Cranberry inlet, and running thence up the bay to the mouth of Metetecunk river; thence up the said river to the first bridge, which now is over the said river; thence west until it shall intersect a line to be run, south eighteen degrees east, from the place where Burlington old path crosseth the north branch of Tom's river, called Pine-brook; thence, from the intersection of the said lines, south fifty-six degrees west to the old division line, called Keith's line; thence, along said Keith's line, to the line of the town of Stafford; thence, along the same, to the main sea or ocean; and thence bounded by the sea to the above mentioned beginning; shall be, and is hereby divided off from the said township of Shrewsbury, and made a separate town, to be called by the name of the town of Dover.

1771.

Bounds of
Dover.

2. *And be it further enacted by the authority aforesaid,* That all that part of the aforesaid township of Shrewsbury, beginning at the mouth of Passaquanqua brook, where it vents into Manasquan river; and from thence running south to the line of the before mentioned town of Dover; then west along the same line to the line of that part of the said town of Shrewsbury, annexed to the town of Upper-Freehold; thence north eighteen degrees west, to where Burlington old path crosseth the north branch of Tom's river, alias, Pine-brook; thence easterly along the bounds of said Freehold, to where it began; shall be, and is hereby, divided off from the said town of Shrewsbury, and annexed unto the town of Freehold, and for ever hereafter shall be accounted part thereof.

Addition to
Freehold.

3. *And be it further enacted by the authority aforesaid,* That all that part of the town of Shrewsbury, beginning where Burlington old path crosseth the before mentioned north branch of Tom's river; thence running south eighteen degrees east, to the line of Dover aforesaid; thence south fifty-six degrees west, along said line of Dover, to the before mentioned line called Keith's line; thence along the said line to the line of Upper-Freehold; thence along the line of Upper-Freehold to where it began; shall be, and is hereby, divided off from the said town of Shrewsbury, and annexed unto the town of Upper-Freehold, and for ever hereafter shall be accounted part thereof.

Addition to
Upper-Free-
hold.

AN ACT for the preservation of deer, and other game, and to prevent trespassing with guns.

ALLIS. 343.
PAT. 19.

Passed the 21st of December, 1771.

WHEREAS the laws heretofore passed in this colony, for the preservation of deer and other game, and to prevent trespassing with guns, traps and dogs, have, by experience, been found insufficient to answer the salutary purposes thereby intended; therefore—

Preamble.

1771.

No person to
carry a gun on
lands not his
own, except,
&c.

Penalty.

No person to
drive deer or
other game
except, &c.

Penalty.

Penalty on
non-residents.

What shall be
evidence of
such killing,
&c.

1. *Be it enacted by the Governor, Council, and General Assembly of this colony of New-Jersey, and it is hereby enacted by the authority of the same,* That if any person or persons shall presume, at any time after the publication hereof, to carry any gun on any lands not his own, and for which the owner pays taxes, or is in his lawful possession, unless he hath license or permission in writing from the owner or owners, or legal possessor, every such person so offending, and convicted thereof, either upon the view of any justice of the peace within this colony, or by the oath or affirmation of one or more witnesses, before any justice of the peace of either of the counties, cities, or towns corporate of this colony, in which the offender or offenders may be taken or reside, he, she, or they, shall, for every such offence, forfeit and pay to the owner of the soil, or his tenant in possession, the sum of forty shillings, with costs of suit; which forfeiture shall and may be sued for and recovered by the owner of the soil, or tenant in possession, before any justice of the peace in this colony, for the use of such owner or tenant in possession.

2. *And be it enacted by the authority aforesaid,* That if any person shall presume, at any time after the publication of this act, to hunt or watch for deer with a gun, or set in any dog or dogs to drive deer, or any other game, on any lands not his own, and for which the owner or possessor pays taxes, or is in his lawful possession, unless he hath license or permission in writing from such owner or owners or legal possessor; every such person so offending, and being convicted thereof in manner aforesaid, shall, for every such offence, forfeit and pay to the owner of the soil, or tenant in possession, the sum of forty shillings, with costs of suit; provided, that nothing herein contained shall be construed to extend to prevent any person carrying a gun upon the highway in this colony.

3. *And be it further enacted by the authority aforesaid,* That if the person or persons offending against this act be non-residents of this colony, he or they shall forfeit and pay for every such offence, five pounds, and shall forfeit his or their gun or guns to any person or persons, who shall inform and prosecute the same to effect, before any justice of the peace in any county of this colony, wherein the offender or offenders may be taken or apprehended.

4. Repealed, and supplied by act, February 21, 1820.

5. *And, for the better and more effectual convicting of offenders against this act, Be it enacted by the authority aforesaid,* That any and every person or persons in whose custody shall be found, or who shall expose to sale, any green deer-skins, or fresh venison, killed at any time after the first day of January, and before the first day of September aforesaid, and shall be thereof convicted by the oath or affirmation of one or more credible witnesses, shall be deemed guilty of offending against this act, and be subjected to the penalties of killing deer out of season.

6. Repealed by act, February 21, 1820.

7. *And be it enacted by the authority aforesaid,* That if any person or persons, within this colony, shall set any trap or other device whatsoever, larger than what is usually and commonly set for foxes and muskrats, such person, setting such trap or other device, shall pay the sum of five pounds, and forfeit the trap or other device, shall suffer three months imprisonment, and shall also be liable to make good all damages any person shall sustain by setting such trap or other device, and the owner of such trap or other device, or person to whom it was lent, shall be esteemed the setter thereof, unless it shall be proved, on oath or affirmation, what other person set the same, or that such trap or other device was lost by said owner or person, to whom it was lent, and absolutely out of his power; and if the setter of the trap or other device be a slave, and it be his own voluntary act, he shall (unless the master or mistress shall pay the fine) in lieu of such fine, be publicly whipped with thirty lashes, and committed till the costs are paid; and that the said trap or other device shall be broken and destroyed in the view and presence of the justice of the peace, before whom they are brought: and if any person or persons shall have possession of, or there shall be found in his or their house, any trap or traps, device or devices whatsoever, for taking of deer, such person or persons shall be subjected to the same penalty as if he or they were convicted of setting such trap or traps, or other device.

1771.

Penalty on setting traps, &c.

Penalty on a slave setting such trap, &c.

Penalty on keeping such trap, &c.

8. *And, for encouraging the destruction of such traps and devices, Be it enacted by the authority aforesaid,* That if any person shall seize any trap or other device for the taking deer, and shall carry such trap or other device to any magistrate of the county, where such trap or device was seized, such person shall be entitled to an order from the said magistrate to the collector of such county, to pay him the sum of ten shillings, out of any money in his hands raised for the use of the county; which sum shall be allowed to such collector, on the settlement of his accounts.

Reward for seizing a trap, &c.

9. *And be it further enacted by the authority aforesaid,* That every smith or other artificer, who shall hereafter make or mend any such trap or other device aforesaid, he shall forfeit and pay the sum of forty shillings; and the person carrying such trap or other device to the artificer aforesaid, shall forfeit and pay the sum of twenty shillings. And every person, who shall bring into this colony any such trap or device as aforesaid, shall forfeit and pay the sum of forty shillings. And if the person, who shall carry the same to the smith or artificer, shall be so poor as that he shall not be able to pay the forfeiture aforesaid, he shall be committed to the common gaol, until he shall prove who is owner of such trap or device, or who delivered the same to him; and, in such case, the forfeiture aforesaid shall be levied on the goods, or, in failure of goods, on the body of the owner of such trap or device, or the person who delivered the same to the pauper, and the trap or device shall be forfeited and destroyed.

Penalty on a smith making or mending such trap.

Penalty on bringing such trap, &c. into the colony.

10. *And whereas* a most dangerous method of setting guns has too much prevailed in this province, *Be it enacted by the authority aforesaid,* That if any person or persons, within this colony,

Penalty for setting loaded guns.

1771.

shall presume to set any loaded gun in such manner, as that the same shall be intended to go off or discharge itself, or be discharged by any string, rope or other contrivance, such person or persons shall forfeit and pay the sum of six pounds; and, on non-payment thereof, shall be committed to the common gaol of the county, for six months.

Application of penalties.

Jurisdiction given to one magistrate.

11. *And be it further enacted by the authority aforesaid*, That the fines and forfeitures in this act expressed, and not particularly appropriated, shall be paid, one half to the prosecutor, and the other half to and for the use of the poor of the town, precinct or district, where the offence is committed; and that the execution of this act, and every part thereof, shall be within the cognizance and jurisdiction of any one magistrate or justice of the peace, without any reference to the act for trial of small causes in this colony.

This act not to affect parks.

12. *And be it enacted*, That nothing in this law shall be construed to extend to restrain the owners of parks, or of tame deer, from killing, hunting or driving their own deer.

Penalty on magistrate neglecting his duty.

13. *And be it also enacted by the authority aforesaid*, That if any justice of the peace or other magistrate, within this province, shall have information of any persons offending against this act, in killing deer out of season, setting and making traps, non-residents killing deer, and persons setting of guns, and shall not prosecute the same to effect, within two months after such information, he shall forfeit and pay the sum or sums, to which the offender against this act would have been liable.

Italic repeated by act of February 21st 1820.

14. *And be it enacted by the authority aforesaid*, That the justices, at every quarter-sessions of the peace, shall cause this act to be publicly read; and give in charge to the grand-jury, to particularly inquire and present all persons for killing deer out of season, setting or making traps, and all non-residents killing, destroying, hunting and taking any sort of deer, and all persons setting of guns; and, upon conviction for either of the said offences, the said justices shall set and impose the fines and penalties herein before mentioned, with costs of suit.

Penalty for watching in the night near a road.

16. *And be it enacted by the authority aforesaid*, That if any person or persons, within this colony, shall, after the publication of this act, watch with a gun, on any uninclosed land within two hundred yards of any road or path, in the night-time, whether the said road is laid out by law or not, or shall stand or station him or themselves upon or within two hundred yards of any road as aforesaid, for shooting at deer driven by dogs, he or they so offending, shall, on conviction, forfeit and pay the sum of five pounds, for every such offence; to be recovered by action of debt, or presentment of the grand-jury as aforesaid, and pay all damages.

Not to affect Indians, nor Essex, Bergen, Morris or Sussex.

17. *Provided always*, That the sixth section of this act, shall not be construed to affect any native Indian; and that nothing in this act shall be construed to prevent the inhabitants of Essex, Bergen, Morris and Sussex, from making, having in their houses,

or setting traps of five pounds weight, or more, for bears, wolves, foxes, or any other wild beasts, deer only excepted.

1772.

18. *And be it further enacted by the authority aforesaid, That all former laws made in this colony for the preservation of deer and other game, and to prevent trespassing with guns, and regulating the size of traps, shall be, and they are hereby repealed.*

Repeal of former laws.

See supplement passed 21st of February, 1820.

AN ACT for establishing the boundary or partition line between the colonies of New-York and Nova-Cæsarea or New-Jersey, and for confirming the titles and possessions.

ALLIS. 368.
PAT. 22.

Passed the 26th of September, 1772.

WHEREAS the boundary or partition line between the colonies of New-York and Nova-Cæsarea or New-Jersey, from the station on Hudson's river, to the station on Delaware river, not being duly ascertained, and the extent of their respective jurisdictions remaining uncertain, and the due and regular administration of government, in both colonies, being, by that means, greatly obstructed, the respective legislatures of both the said colonies did, by acts for the purpose passed, concur in submitting the title and property of the lands, affected by the said boundary or partition line in both colonies, to such a method of decision as his most gracious majesty should think proper, by his royal commission or otherwise, to institute and appoint; of which acts his majesty was pleased to declare his approbation, and, by his royal commission, under the great seal of Great-Britain, bearing date the seventh day of October, in the seventh year of his reign, did authorize and appoint certain persons therein named, or any five of them, to be his majesty's commissioners for ascertaining, settling and determining the boundary aforesaid, between the said colonies. *And whereas* a sufficient number of the commissioners, named in the said commission, on the seventh day of October, in the year of our Lord, one thousand seven hundred and sixty-nine, did determine, that the boundary or partition line, between the said colonies of New-York and New-Jersey, should be a direct and straight line from the fork or branch, formed by the junction of the stream or waters called the Machackamack with the river Delaware or Fishkill, in the latitude of forty-one degrees, twenty-one minutes and thirty-seven seconds, as found by the surveyors appointed by the said commissioners, to a rock on the west side of Hudson's river, marked by the said surveyors, in the latitude of forty-one degrees, being seventy-nine chains and twenty-seven links to the southward on a meridian from Sneydon's house, formerly Corbet's, from which determination the agents for both said colonies, appealed to his majesty in his privy-council. *And whereas* several tracts of land to the northward of the said partition line, so decreed by the said commissioners, have been heretofore taken up or sold, and hitherto and still are held and

Preamble.

1772.

possessed by virtue of titles derived from and under the government of New-Jersey, or the general proprietors of the same, or some or one of them, to wit, one tract of land on the sixth day of November, one thousand seven hundred and eighteen, surveyed and afterwards returned for John Docker, for one thousand acres, with the usual allowance for highways; another tract on the eleventh day of October, one thousand seven hundred and eleven, surveyed and afterwards returned for William Tidsworth for three hundred and fifty acres, with the usual allowance for highways; another tract on the twenty-ninth day of July, one thousand seven hundred and thirty-one, surveyed and afterwards returned for Samuel Green, for seven hundred and eighty-three acres, with the usual allowance for highways; and two other tracts of land mentioned to contain together five hundred acres, besides the usual allowance for highways, surveyed and returned for Johannes Westphalia, Claus Westphalia, Simon Westphalia, Tunis Quick, Remora Quick, and Cornelius Doucher, only about one hundred acres of which last mentioned two tracts are now held and possessed by virtue of the said survey, the remainder thereof being now held and possessed by persons claiming under the colony of New-York; another tract of land at the north-east end of the long pond, surveyed and returned for or at the request of Peter Schuyler, containing four hundred and two acres, and forty-nine hundredths of an acre, strict measure, which, after allowance for highways, was to remain for three hundred and eighty-three acres, and thirty-two hundredths of an acre; and also another small tract of land surveyed the twelfth day of July, one thousand seven hundred and sixty-three, for John and Gertrude Schuyler, situate adjoining the tract last above mentioned, and containing thirteen acres and fifty-nine hundredths of an acre; several other tracts of land sold and conveyed by the devisees of James and Mary Alexander to sundry persons, on the thirteenth day of December, one thousand seven hundred and sixty-two, to wit, to Elijah Inman one hundred and one acres, and seven hundredth parts of an acre; to Hannah Forguson one hundred and twenty-three acres, and fifty-one hundredth parts of an acre; to George Kimber one hundred and sixty-one acres, and seventy-four hundredth parts of an acre; to Hezekiah Lorin ninety-seven acres, and fourteen hundredth parts of an acre; to Inman Wallin sixty-six acres, and ninety-three hundredth parts of an acre; to Benjamin Van Vleet one hundred and four acres, and thirty-five hundredth parts of an acre; to Bryant Hammell one hundred and thirty-five acres; to James Clark one hundred and four acres, and fifty-six hundredth parts of an acre; to Jacobus Rosecrans one hundred and seventy-three acres and thirty-five hundredth parts of an acre; to Johannes Westbrook one hundred acres; to John Davis one hundred and fifty-two acres; to Jacob Middagh two hundred and thirteen acres, and seventy-six hundredth parts of an acre; and to Josias Cole one hundred acres; and another tract of fifty acres sold and conveyed by Andrew Johnston to George Kember, on the eighth day of August,

1772.

one thousand seven hundred and fifty-nine, a part of which lays to the southward of the said partition line; another tract of eighty-seven acres, and fifty-six hundredth parts of an acre, sold and conveyed by Benjamin Thompson to Johannes Westbrook, on the fourth day of May, one thousand seven hundred and sixty-three; two other tracts of land sold and conveyed by James Alexander, William Burnet, and James Parker, to Richard Gardiner, on the thirtieth day of March, one thousand seven hundred and fifty-three, the one tract containing one hundred and seventy acres, and the other eight acres; another tract of forty acres, and sixty-three hundredth parts of an acre, sold and conveyed by the devisees of James and Mary Alexander to the said Richard Gardiner, on the third day of January, one thousand seven hundred and sixty-three; and another tract of one hundred and seventy-three acres, sold and conveyed by the said devisees of the said James and Mary Alexander to Joseph Barton, on the sixteenth day of December, one thousand seven hundred and sixty-two, part whereof lies to the southward of the said partition line; another piece of land containing about one acre, sold and conveyed by David Ackerman to Jacobus Van Buskirk, on the twelfth day of February, one thousand seven hundred and sixty-two; and also several other tracts of land purchased, surveyed and located, for the proprietors of the Stirling iron works, to wit, one tract containing fifty acres, surveyed the tenth day of November, one thousand seven hundred and thirty-six to Cornelius Board and Timothy Ward; six small tracts, containing in the whole twenty-seven acres and seventy-two hundredths of an acre, surveyed the twelfth day of February, one thousand seven hundred and thirty-eight, to the said Board and Ward; six other tracts of land, containing in the whole three hundred and seventy-one acres, and fifty-three hundredths of an acre, surveyed the twenty-third day of July, one thousand seven hundred and forty, to Timothy Ward, William Smith, and company; and another tract of ten acres and eight-tenths of an acre, surveyed the twenty-ninth day of November, one thousand seven hundred and fifty-seven, to William Hawkhurst; three other tracts, containing in the whole one hundred and thirty-one acres and twenty-five hundredths of an acre, surveyed to James Burling the seventh day of May, one thousand seven hundred and fifty; and another tract containing ten acres and twenty-nine hundredths of an acre, surveyed to William Hawkhurst the twentieth day of July, one thousand seven hundred and sixty-one; one other tract of land sold and conveyed by John Barberie and Peter Fauconier, to John Sobrisco, on the sixth day of November, one thousand seven hundred and twenty-four, containing six hundred and thirty acres; one other tract of land sold and conveyed by Magdalene Valleau, to Coenradt Wanamaker, on the twenty-third day of May, one thousand seven hundred and fifty-three, containing one hundred and five acres; one other tract of land sold and conveyed by Richard Gardiner to Elijah Reeve, on the eighth day of June, one thousand seven hundred and sixty-

1772.

two, containing one hundred and twenty-seven acres and forty-eight hundredths of an acre; also three other tracts of land, surveyed the thirteenth day of April, one thousand seven hundred and sixty-eight, to William Hawkhurst, containing one hundred acres and ninety-eight hundredths of an acre, strict measure, after the usual allowance for highways. *And whereas* several other tracts of land to the southward of the said partition line, so decreed by the said commissioners, have been heretofore patented, and hitherto and still are held and possessed by virtue of titles derived under the government of New-York, to wit, sundry tracts of land included in the following bounds, beginning at the aforesaid rock on the west side of Hudson's river, in the latitude of forty-one degrees, and runs from thence southerly along Hudson's river, to the south-east corner of the land now in the possession of Mattys Bogert; and from thence westerly along the south side of the said Mattys Bogert's land, and along the lines of the lands now in the possession of Isaac Westervelt, and Garret Westervelt to the Tiene-kill; and then along the said kill to the Dwars-kill; and from thence along the said Dwars-kill to Demarest's-kill, on Hackinsack river; and from thence along the said river to the mouth of Pascack river; and then along the said Pascack river till it comes to the lands of David Demarest, whereon the said David Demarest's mill stands; and then westerly around his lands, and including the same to the said Pascack river; and then along said Pascack river to the said partition line decreed as aforesaid; and then along the said partition line to the place of beginning; and another tract of land sold and conveyed by Benjamin Ask and Lancaster Symes to Thomas De Kay, containing one thousand, three hundred and twenty acres, part of which lies to the northward of the said partition line; and two other tracts of land sold and conveyed by Hendrick Vanderlinda to Frederick Ortendike, by deed bearing date the thirtieth day of May, one thousand seven hundred and thirty-five, the one containing two hundred and eighty-five acres, and the other containing one hundred and eighty acres; and another tract of land sold by Abraham Van Horne and Catharine his wife, to John Fasheur and Cornelius Haring, by deed bearing date the twenty-second day of May, one thousand seven hundred and fifty-two, containing one hundred and eighty-five acres, be the same more or less; and another tract of land sold and conveyed by Samuel Verbryck and Susannah his wife, to John Fasheur, by deed bearing date the nineteenth day of May, one thousand seven hundred and fifty-nine, containing two hundred and sixty-five acres and three-fourths of an acre, good measure, part whereof lies to the northward of said partition line; and another tract of land sold and conveyed by Benjamin Van De Linde to William Haldron, by deed bearing date the eighteenth day of December, one thousand seven hundred and sixty, containing two hundred and fifty-eight acres; and another tract of land, being the remainder of the unsold lands of so much in Samuel Bayard's patent, as is contained in a deed from Hendrick Van De Linde to Roelof Van De Linde, Ben-

1772.

jamin Van De Linde and Samuel Verbryck, bearing date the thirtieth day of June, one thousand seven hundred and sixty; and another tract of land sold and conveyed by Robert Campbell to Andries Pieterse, by deed bearing date the twenty-first day of August, one thousand seven hundred and sixty-two, containing one hundred and fifty acres; and another tract of land sold and conveyed by Henry Van De Linde and Arienne his wife, to Abraham Post, by deed bearing date the twelfth day of January, one thousand seven hundred and sixty, containing one hundred and fifty acres; and another tract of land sold and conveyed by Benjamin Van De Linde to Garret Ackerson and Garret Haring, by deed bearing date the fourth day of May, one thousand seven hundred and fifty-nine, containing three hundred and forty-eight acres; and also a piece of land, now in the possession of William Byard, esquire, being a part of a tract of land formerly granted by letters patent, under the great seal of the province of New-York, to Daniel Honan and Michael Hawden, lying adjoining the south side of the said partition line, and bounded to the south-east by the land in possession of John Fasheur, and to the south-west by the land in possession of William Haldron. And whereas it is conceived just and equitable, that the present possessors of the said lands, on each side of the said partition line, who have not only purchased the same for a valuable consideration, but many of them have laid out all their substance in the improvement thereof, should be secured in the enjoyment of the fruits of their labor and industry—

1. BE IT THEREFORE ENACTED by his excellency the Governor, the Council, and the General Assembly, and it is hereby enacted by the authority of the same, That the said partition line, so decreed by the said commissioners, is and shall for ever hereafter remain, and be the boundary and line of partition between this colony and the colony of New-York.

Partition line.

2. And be it further enacted by the authority aforesaid, That James Parker, John Stevens, and Walter Rutherford, esquires, or any two of them, shall be, and hereby are appointed commissioners to join with such as are appointed on the part of the colony of New-York, to ascertain and mark the said partition line, so that it may be sufficiently known and distinguished; and the said commissioners are hereby directed and required to mark the before mentioned rock, on the west side of Hudson's river, marked by the surveyors in the latitude of forty-one degrees, with a straight line throughout its surface, passing through the place marked by the surveyors, and with the following words and figures, to wit, "latitude forty-one degrees north," and on the south side thereof, the words "New-Jersey," and on the north side thereof, the words "New-York;" and to mark every acre that may stand in the said line, with five notches and a blaze, on the north-west and south-east sides thereof; and to put up stone monuments, at one mile distance from each other, along the said line, and to number such monuments with the number of miles the same shall be from the before mentioned marked

Who to ascertain the line, and how.

1772.

rock, on the west side of Hudson's river, and mark the words "New-Jersey" on the south side, and the words "New-York" on the north side of every of the said monuments.

Titles of patents, &c. under New-York to the southward of the line, confirmed.

3. *And be it further enacted by the authority aforesaid*, That the several and respective patentees, vendees, possessors and claimants, of all and every the said tracts of land to the southward of the said boundary or partition line, which are now held and possessed, in virtue of titles derived under the government of New-York, as above described, and their heirs and assigns, shall severally hold and for ever enjoy the property of all, and any and every of the said tracts of land, so as aforesaid respectively purchased and possessed, as fully and in the same manner, to all intents and purposes whatsoever, as if the same had, by virtue of this act, been determined to be within the colony of New-York, without any let, suit, disturbance or molestation of the general proprietors of New-Jersey, or any of them, or any person or persons claiming or to claim by, from or under the said general proprietors, or any or either of them, or by virtue of any title derived under the said government of New-Jersey.

This act not to divest any right under New-York.

4. *Provided always, and be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for any person or persons claiming titles under the said government of New-York, to any of the aforesaid lands or tenements, hereby intended to be secured to the purchasers and possessors under the said government of New-York, to the southward of the said boundary or partition line, to commence, sue, prosecute and maintain any writ, suit or action, for the recovery of their rights; this act being only designed to confirm the titles to such lands lying to the southward of the said partition line, as are in manner aforesaid, actually held and possessed under the government of New-York, against all claims under the general proprietors or government of New-Jersey, but not to determine the particular rights of the claimants of such lands under the government of New-York.

Royal assent to be had.

5. *Provided always*, That this act shall not be in force or take effect, until his majesty shall have given his royal assent, both to this act and a similar act passed by the governor or commander in chief, the council and the general assembly of the colony of New-York, the sixteenth day of February, in the eleventh year of his present majesty's reign, entitled "An act for establishing the boundary or partition line between the colonies of New-York and Nova Casarea, or New-Jersey, and for confirming titles and possessions."

Confirmed by the king in council, the first day of September, 1773.

AN ACT to enable all persons who are his majesty's liege subjects, either by birth or naturalization, to inherit and hold real estates, notwithstanding any defect of purchases made before naturalization, within this colony.

1774.

ALLIS. 378.
PAT. 26.

Passed the 26th of September, 1772.

AN ACT for the settlement and relief of the poor.

ALLIS. 408.
PAT. 26.

Passed the 11th of March, 1774.

WHEREAS the present law of this colony for the settlement and relief of the poor, and for the removal of vagrants and other disorderly persons, hath, by experience, been found not to be attended with the good effects designed by the legislature, nor hath sufficiently pointed out the manner to obtain a settlement; for the better ascertaining what shall gain a settlement, and for the more effectually providing for the purposes aforesaid—

Preamble.

1. **BE IT ENACTED** by the Governor, Council, and General Assembly, and it is hereby enacted by the authority of the same, That every person who shall become seized of any freehold estate, of the value of fifty pounds, in any city, town-corporate, township or precinct, and shall dwell upon the said estate, or in the city, town-corporate, township or precinct, in which such estate doth lie, for one full year, shall thereby obtain a legal settlement in such city, town-corporate, township or precinct; and every person, who shall have served an apprenticeship under indenture, and every indentured servant legally and directly imported from Europe, or brought in from the neighboring colonies into this province, shall obtain a legal settlement in the city, borough, township or precinct, in which such apprentice or servant shall first serve with his or her master or mistress, for the space of one full year; and if afterwards such apprentice or servant shall duly serve in any other place for the space of one full year, such apprentice or servant shall obtain a legal settlement in the city, borough, township or precinct, where such apprenticeship or service was last performed, either with his or her first master, or mistress, or with the assignee or assignees on an assignment of the said indentures; and that all mariners coming into this province, and having no settlement in this nor any of the neighboring colonies, and every other healthy person directly coming from Europe into this province, shall be legally settled in the city, borough, township or precinct, in which he or she shall first settle and reside for the space of one year.

Terms of gaining a settlement.

2. **And be it further enacted** by the authority aforesaid, That from and after the publication of this act, no person or persons whatsoever, other than those herein before mentioned, coming into any city, town-corporate, township or precinct within this colony, shall be esteemed or deemed to have obtained a legal settlement in the same, unless such person or persons, within

Nopersons, except such as are mentioned in the preceding section, to gain settlements, without notice in writing to the overseers.

1774.

forty days after his, her or their coming into such city, town-corporate, township or precinct, shall give notice in writing to the overseers of the poor of the city, town-corporate, township or precinct, into which he, she or they shall come to reside, of the house and place where he, she or they do live or abide, and the number of his or her family, if any he or she hath; a copy of which said notice shall be endorsed by the said overseer, acknowledging his receipt thereof, and delivered by the person or persons serving the same on the said overseer as aforesaid, to the town-clerk of the city, town-corporate, township or precinct, in which he, she or they shall come to reside as aforesaid; which said town-clerk shall enter the same, with the endorsement thereon as aforesaid, in the town-book by him kept, and return the original to the person or persons so giving notice as aforesaid, for which service the said clerk shall be entitled to receive the sum of one shilling, and no more, from the person so giving notice as aforesaid; and in case the said overseer of the poor shall not, within twelve months after such notice, cause such person or persons to be removed by warrant under the hand and seal of at least one magistrate of the county, city, town-corporate, township or precinct, into which they shall so come to reside, that then, and in such case, such person or persons so giving notice, and entering the same in the town-clerk's books as aforesaid, shall be deemed, esteemed and taken to be legally settled in such city, town-corporate, township or precinct, to all intents, purposes and constructions whatsoever.

Servants procured from gaols, &c. denied a settlement.

3. *And whereas* servants are purchased, hired or otherwise procured from the gaols, hospitals and workhouses of the neighboring colonies, and inconveniences have arisen therefrom, *Be it enacted by the authority aforesaid*, That no servant or servants bought, hired or otherwise procured from the gaols, hospitals and workhouses of the neighboring colonies, shall gain any settlement in this colony, by virtue of his or her being bought or hired as aforesaid, or otherwise assigned to any person or persons inhabiting in this colony, any thing herein before to the contrary notwithstanding.

Bastard children, where settled.

4. *And whereas* single women with child often remove from the places of their settlement, and are delivered of bastard children in distant cities, townships or precincts, whereby such cities townships or precincts are unjustly liable to, and often made chargeable with, the support of such bastard children, *Be it therefore enacted by the authority aforesaid*, That all bastard children shall hereafter be deemed, esteemed and taken to be settled in the place of the last legal settlement of the mother of such bastard child or children, any law, usage or custom to the contrary notwithstanding.

Penalty on inhabitants entertaining persons not settled.

5. *And*, for the more effectual preventing any rogues, vagabonds, vagrants, sturdy beggars, and other idle, strolling, disorderly person or persons concealing him, her, or themselves within any city, town-corporate, township or precinct, within this colony, *Be it further enacted by the authority aforesaid*, That if any house-keeper or inhabitant of this colony, shall, after publication

1774.

See section 2,
act 10th June
1830.

of this act, take into, receive or entertain in his, her or their dwelling place or places of abode, house or houses, any person or persons whatsoever, who have not gained a legal settlement in some city, town-corporate, township or precinct within this colony; and shall not give notice in writing, within the space of ten days next after his, her or their taking in, receiving or entertaining any such person or persons as aforesaid, to the overseers of the poor of every such city, town-corporate, township or precinct, where such person dwelleth; every such inhabitant or house-keeper, being thereof legally convicted, by the oath or affirmation of one credible witness, before any one justice of the peace of the county, city or town-corporate, where such offence shall be committed, shall forfeit and pay the sum of twenty shillings for every such offence, the one moiety or half part thereof to be applied to the use of the poor of the said city, town-corporate, township or precinct, and the other moiety to the use of the informer or person who shall prosecute the same to effect, to be recovered in the usual manner, by process and execution, as actions of debt before justices of the peace in this colony, are made cognizable and recoverable: and in case the person or persons, so entertained as aforesaid, shall become poor and unable to maintain him, her or themselves, and cannot be removed to the place or places of his, her or their last legal settlement, or shall happen to die and not leave wherewithal to defray the charge of his or her funeral, then and in such case, the inhabitant or house-keeper, convicted as aforesaid, of entertaining such poor person or persons, shall be obliged to provide for and maintain such poor and indigent person and persons, and to pay for the charges of such poor person's funeral; and, upon refusal so to do, it may and shall be lawful for any one justice of the peace, together with any two or more of the overseers of the poor of every such county, city, town-corporate, township or precinct, where the said offence shall be committed, and they are hereby required to assess such sum or sums of money on the person and persons so convicted as aforesaid, by a weekly assessment, from time to time, as shall be sufficient for the maintenance of such poor indigent person or persons, according to the usual allowance made for the relief of the poor; and also to assess, in like manner, a certain sum for defraying the charges of every such poor person's funeral as aforesaid; and in case the party, so convicted as aforesaid, shall neglect or refuse to pay the sum and sums of money so assessed or charged as aforesaid, to the overseers of the poor, for the uses aforesaid, the same shall be levied upon the goods and chattels of the offender, by warrant of distress, to be issued by one of the justices of the peace of said county, city or town-corporate, directed to one of the constables of said county, city or town-corporate, who shall, as near as may be, make sale of so much of his or her said goods and chattels, as shall be sufficient to pay the said sum and sums of money so assessed; and the overplus, if any be, after all legal costs and fees are deducted, shall be returned to the owner: and if such person, so convicted as aforesaid, hath no goods and chattels to satisfy and pay the money so assessed for him or her to pay, then, and in such case,

1774.

it may and shall be lawful for such justice of the peace, and he is hereby required to commit such offender to prison, there to remain without bail or mainprize, until he or she have paid the same, or until he or she shall be discharged by due order of law.

Persons bringing certificates may reside.

6. *And whereas* it is found by experience, that many poor persons belonging to this colony cannot find employment in the city, town-corporate, township or precinct where they are legally settled, yet might get work for themselves and families in other places within the said colony, but not being able to give security, if required, upon their coming to settle in any other place, that they and their families shall not become chargeable and burdensome to such place or places within the said colony, where they intend to remove, and for want of such security may be confined to their own legal place of settlement, though their labor may be wanted elsewhere; for removing every such inconveniency, *Be it enacted by the authority aforesaid*, That if any person or persons shall think proper to remove out of any one city, town-corporate, township or precinct within this colony, into another, there to inhabit and reside, and shall, at the same time, procure, bring and deliver to the overseers of the poor of every such city, town-corporate, township or precinct where he, she or they shall so come to inhabit, a certificate under the hands and seals of the overseers of the poor, or any two of them, of his, her or their last legal settlement, attested by two or more credible witnesses, and allowed of and subscribed by two or more justices of the peace of the city or town-corporate, or of the county wherein the township or precinct doth lie, from which he, she or they shall remove as aforesaid, thereby acknowledging the person or persons therein mentioned to be an inhabitant and inhabitants legally settled in such city, town-corporate, township or precinct mentioned in such certificate as aforesaid, then and in such case, it shall and may be lawful for every such person and persons, with their families, upon the delivery of such certificate as aforesaid, to continue, abide and remain in any such city, town-corporate, township or precinct, to which he, she or they shall remove as aforesaid, and to follow any honest employment within the same, he, she or they conforming to the laws and custom of any such place and places, to which they shall so remove; and the overseers of the poor shall deliver every such certificate to the clerk of the city, town-corporate, township or precinct, to which any such person shall come to reside as aforesaid; and the said clerk is hereby required and commanded to file and take care of every such certificate.

Certificate to be filed.

Persons, under certificates, becoming chargeable, may be removed.

7. *Provided always, and be it further enacted by the authority aforesaid*, That whenever it shall happen, that the said person or persons, with their families, so removing, by virtue of the certificate or certificates aforesaid, shall become chargeable, or be obliged, by sickness or otherwise, to ask relief of the city, town-corporate, township or precinct, to which such certificate was given, and into which he, she or they were received as aforesaid, that then, and not before, it shall and may be lawful for the overseers of the poor of the last mentioned place and places, to remove and convey all and every such person or persons, with all and

1774.

every of their family and families and children, though born within the last mentioned place and places, together with his, her or their servants and apprentices, to the city, town-corporate, township or precinct, from which such certificate was brought as aforesaid, who are hereby required and obliged to receive and provide for every such person and persons, with his, her or their family and families as aforesaid, as inhabitants of that place.

Provided nevertheless, That every such servant and apprentice, who shall have duly served his apprenticeship and servitude in the said city, town-corporate, township or precinct, in which his master or mistress shall have so settled by certificate as aforesaid, and who shall thereby have gained a legal settlement in such place agreeable and according to the laws of this colony, shall not be liable to be removed as aforesaid.

Servant and apprentice gaining a settlement under the certificate, not to be removed.

8. *Provided also,* That the aforementioned clauses, relating to the obtaining temporary settlements by certificates, shall not be deemed or construed to extend to any person or persons, who have not already obtained, or shall not hereafter obtain a legal settlement or settlements in some part of this colony; and also that no person or persons, who shall be required to bring such certificate or certificates as aforesaid, shall be deemed or esteemed by any act or acts of him, her or them, to have gained a legal settlement in any city, town-corporate, township or precinct, during the time he, she or they shall reside there, by virtue of the said certificate or certificates.

Above clauses relative to certificates, to extend only to persons settled in this province.

9. *And whereas* it often happens that persons, having a residence in a township, city, or precinct, in this colony, come out of the places of their legal residence, into other parts of this colony, and there become sick, lame, or otherwise so infirm, that they cannot be removed, and many times die before they can be legally sent back, whereby the inhabitants of such places, where such persons become sick, lame, or die, are put to charges and expenses in the maintenance or burying such persons: *and whereas* it is highly just and reasonable that such charges and expenses should be repaid; *Be it therefore enacted by the authority aforesaid,* That if any person or persons shall come out of any of the place or places, where they are legally settled, into any city, town-corporate, township or precinct within this colony, and shall happen to be taken sick or lame, so that they cannot be conveniently moved back to the place of their last legal settlement, then the overseers of that place, into which such person or persons shall so come as aforesaid, or one of them, shall give notice to the overseers of the city, town-corporate, township or precinct, or one of them, out of which such person or persons shall so come as aforesaid, of the name, circumstances and condition of such person or persons, and request such overseers, or one of them, to take care to relieve and maintain such sick or lame person during his or her illness, and also to provide for the funeral of such person, if he or she should happen to die; and if such overseer or overseers shall neglect or refuse so to do, upon such notice given as aforesaid, that then and in such case it shall be lawful for any two justices of the peace of the county, city or

Who to pay the expense of persons becoming infirm, or dying out of their townships.

1774.

town-corporate, where such person had last gained a legal settlement, and they are hereby authorized and required, upon complaint made to them, to cause all such sum and sums of money as shall be necessarily expended in the maintenance of such poor person in his or her sickness or lameness, or on his or her funeral, by warrant under their hands and seals, to be directed to some constable of the said county, city or town-corporate, to be levied in the usual manner, by distress and sale of the goods and chattels of the said overseer or overseers of the poor, so neglecting or refusing to take care and provide for any such person as aforesaid, after such notice given to them, or to one of them, as aforesaid; and such sum or sums of money, so recovered, shall be paid to the overseers of the poor, or to one of them, of such city, town-corporate, township or precinct, where such person shall happen to be sick, lame or die as aforesaid; and the overplus of the money arising by the sale of such goods and chattels, after the lawful costs and charges are deducted, if any be, shall be paid to the owners.

Mode of granting relief.

11. *And be it further enacted by the authority aforesaid, That* when, and so often as any poor person, belonging to any city, town-corporate, township or precinct within this colony, shall apply for relief to any overseer or overseers of such place, where he or she may reside, that the said overseer or overseers shall make application to a justice of the peace of any such city or town-corporate, or to a justice of the county, to which any such township or precinct shall belong, which said justice and the overseer or overseers shall inquire into the state and circumstances of such person so applying as aforesaid; and if it shall appear to said justice, that such person is in such poor circumstances as to deserve relief, then the said justice shall give an order in writing to the said overseer or overseers, to make such allowance weekly or otherwise, to every such poor person, as they in their discretion shall think his or her necessities may or shall require; and the said overseer or overseers shall make no other or further allowance to such poor persons than what by the said order shall be directed; which said order shall be a sufficient voucher for the payment or expending of so much money by the said overseer or overseers, and shall be allowed in adjusting his or their accounts.

Overseers to keep a book and make fair entries.

12. *And whereas* many inconveniencies may arise, especially in places where the inhabitants are numerous, and the cities, towns-corporate, townships or precincts are large and extensive, by reason of the unlimited power of overseers of the poor, who may frequently, upon frivolous pretences and for their own private ends, grant relief to what persons they think fit, and may continue the same longer than there may be a real occasion for granting such relief, by which means the rates for the poor may be greatly augmented, contrary to the true intent and meaning of this act; for remedying of which abuses, *Be it further enacted by the authority aforesaid, That* from and after the publication of this act, as soon as conveniently may be, the overseer and overseers of the poor shall procure, at the public charge, a handsome

1774.

folio book of good paper and well bound, wherein the name and names of all poor persons applying for relief, and being ordered the same as aforesaid, shall be registered with the day and year when they were first admitted to have relief, the weekly or other sum or sums of money allowed, by the said order, for their relief, and the occasion which brought them under that necessity; and no person or persons shall be entered into the poor's books, or receive relief from the overseer or overseers of the poor, without such order, procured as aforesaid; and in case any overseer or overseers shall enter into the poor's books, and relieve any such poor person or persons, without such order, he or they shall forfeit all such money and goods, paid and distributed to such poor person or persons, nor shall any allowance be made unto him or them for the same, in passing his or their account and accounts; and the said overseer and overseers are hereby ordered and required to enter, or cause to be entered, in the said poor's books, all moneys received, laid out and disbursed by him or them for the use of the poor, and also all matters and things which shall be transacted by him or them, relating to their said office; and the said overseer and overseers shall lay the said poor's books before the inhabitants at their annual town-meeting or any other of their meetings, that they may then examine and look into the state of the poor accounts, and make such further provision for them as they, upon such inspection, shall find necessary.

15. *And be it further enacted by the authority aforesaid,* That when any poor person or persons shall apply for relief, from any city, town-corporate, township or precinct, within this colony, the overseer or overseers of the same shall take an inventory of every such poor person or persons' goods and chattels, before he, she or they shall be admitted to relief; and in case of the death of any such poor person so obtaining relief as aforesaid, the said overseer or overseers shall cause such goods and chattels to be sold at public vendue; and out of the money arising therefrom, shall reimburse the city, town-corporate, township or precinct, all such charges and expenses, which they may have been put to in maintaining all and every such poor person or persons, or their families; and all sales and bills of sale, made or given for any such poor person or persons' goods and chattels, during the time they shall become chargeable to any such city, town-corporate, township or precinct, are hereby declared to be null and void, and of none effect.

Goods of the paupers to be inventoried and sold.

16. Repealed by act, June 10, 1820.

17. Repealed and supplied by act, June 10, 1820.

18. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the overseers of the poor, or any two of them, with the assistance and approbation of two justices of the peace, of any county, city or town-corporate of this colony, and they are hereby enjoined and commanded to put forth and bind out any poor child or children, who have no parents, or whose parents shall apply to the said overseer or overseers

Poor children to be bound out, and how. See section 1, act 10th June 1820.

1774.

for relief, or the child or children of any poor parents whatsoever, who shall bring up their said children in sloth, idleness and ignorance, and upon advice and direction, given by the said overseer or overseers, shall, for three months after such advice and direction, refuse or neglect to put forth and bind out such poor child or children, for such a number of years as the said justice and overseers, in their discretion, shall think proper; for a male person, till they shall arrive at twenty-one years of age, and for a female, till they arrive at eighteen years of age, and no longer and the said justices, in conjunction with said overseers, or any two of them, amongst the common covenants in the indenture and indentures, made and agreed upon between the parties, shall always insert the following clause, "That every such master and mistress, to whom such poor child or children shall be bound out as aforesaid, shall cause every such child and children to be taught and instructed to read and write." And the said justices, overseers, or any two of them, are hereby appointed the guardians of all and every such poor child and children, so put forth and bound out as aforesaid, to take care that the terms of the indenture or indentures, covenant and covenants, agreed upon between them and the master or mistress of every such poor child be performed and fulfilled, and that he, she or they be not abused or ill used; which said justices, overseers, or any two of them, as aforesaid, or the major part of them, are hereby empowered and directed to inquire into the same, and to redress any such grievance or grievances, in such method as the law hath prescribed.

Estate of persons absconding, may be seized and sold for the maintenance of their families, if they become a public charge.

19. *And whereas* it sometimes happeneth, that persons run away or abscond from their places of abode and legal settlement and leave their wives and families a charge to the public, although such persons may have some estate, real or personal, whereby the place might be eased in whole or in part, which is most just and reasonable: *Be it therefore enacted by the authority aforesaid* That it shall and may be lawful for the overseer or overseers of the poor of any city, town-corporate, township or precinct, within this colony, where any father shall run away, or absent from his wife and children, or any widow shall run away, or absent from her children, and leave them a public charge, to apply to two justices of the peace, and by warrant under the hands and seals of the said two justices, to take and seize the goods and chattels, and to let out and receive the annual rents and profits of the lands and tenements of such father or mother, so absconding as aforesaid, for and towards the maintaining, bringing up and providing for such wife, child or children, so left as aforesaid; and so soon as the said seizure shall be allowed of and confirmed by the justices, in their general quarter-sessions of the peace, it shall and may be lawful for the said overseers, or any two of them, from time to time, and as often as the case may require, to sell and dispose of so much and so many of the said goods and chattels, at public vendue, to the highest bidder, and to apply the money arising thereby towards the maintenance of such poor family, so left as aforesaid.

Overseers accountable therefor.

20. *Provided always, and be it further enacted,* That the said

overseer or overseers, shall be accountable to the justices of the peace, in their said general quarter-sessions, for all such moneys as shall or may arise by every such sale or sales, and for the rents, issues and profits of such lands and tenements.

1774.

Poor houses
may be hired
or built.

21. *And, for the greater ease of the public, in the relief of the poor, Be it further enacted by the authority aforesaid, That it shall and may be lawful for the overseers of the poor of any city, town-corporate, township or precinct, with the approbation and consent of the major part of the inhabitants, householders of such city, town-corporate, township or precinct, if they shall think it convenient and necessary, at any public town-meeting for that purpose met and assembled, of which timely notice shall be given, in the usual manner, to build, purchase or hire any house or houses in such city, town-corporate, township or precinct, and also to purchase necessary materials, for that purpose, out of the money provided, or to be provided, for the relief of the poor, and there to keep, maintain and employ all and every such poor person and persons, and to take the benefit of the work, labor and service of any such poor person or persons, who shall be kept and maintained in any such house or houses, for the better maintenance and relief of such poor person or persons, who shall be there kept and maintained; and in case any poor person or persons, claiming relief of any city, town-corporate, township or precinct within this colony, where such house or houses shall be so built, purchased or hired, shall refuse to be lodged, kept to work and maintained in such house or houses, such poor person or persons, so refusing, shall be put out of the book where the names of the poor are ordered to be registered, by virtue of this act, and shall not be entitled to ask or receive any relief from the overseer or overseers of any such city, town-corporate, township or precinct. And where any city, town-corporate, township or precinct, may be too small to build, purchase or hire such house or houses as aforesaid, it shall and may be lawful for two or more of them, with the consent and approbation of the major part of the inhabitants, householders of each respective place, at a public town-meeting, for that purpose met and assembled, of which timely notice will be given in the usual manner, to join together and unite in building, purchasing or hiring such house or houses, for the lodging, keeping and maintaining of the poor of such places, so joining together and uniting, and there to keep, maintain and employ the poor of such united places as aforesaid, and to take and have the benefit of the work, labor or service of any poor there kept and maintained, for the better maintenance and relief of the poor there kept, maintained and employed. And in case any poor person or persons, claiming relief of any such united places as aforesaid, shall refuse to be lodged, kept to work or maintained in the house or houses built, purchased or hired for such united places as aforesaid, such poor person or persons, so refusing, shall be put out of the book where the names of the poor are ordered to be registered by virtue of this act, and shall not be entitled to ask or receive any relief from the overseer or overseers of any such city,*

Poor refusing
to be lodged in
those houses
to be struck
off the list.

1774.

town-corporate, township or precinct; and it shall and may be lawful for the overseers of the poor of any city, town-corporate, township or precinct within this colony, with the consent and approbation of the major part of the inhabitants, householders of such place or places, where such house or houses shall be built, purchased or hired for the purposes aforesaid, at a public town-meeting for that purpose met and assembled, of which timely notice shall be given in the usual manner, to contract with the overseers of the poor of any other place for the lodging, maintaining and employing of any poor person or persons, to such other place belonging, as to them shall seem meet; and in case any such poor person or persons, belonging to any other city, town-corporate, township or precinct within this colony, shall refuse to be lodged, maintained and employed in such house or houses so contracted for as aforesaid, such poor person or persons so refusing, shall be put out of the book where the names of the poor are ordered to be registered by virtue of this act, and shall not be entitled to ask or receive any relief from the overseer or overseers of any such city, town-corporate, township or precinct.

No settlement
to be gained
on certain re-
movals.

22. *Provided always, and be it enacted*, That no person or persons, his, her or their child or children, shall acquire or gain a settlement in the city, town-corporate, township or precinct, to which he, she or they shall or may be so removed by virtue of this act, but his, her or their settlement shall be and remain in the same place where it was before such removal, any thing in this act to the contrary notwithstanding.

When and how
paupers shall
be removed.

See section 4,
act 10th June
1820.

23. *And be it further enacted by the authority aforesaid*, That if any overseer or overseers of the poor shall have reason to believe, that any person or persons, who have not obtained a legal settlement in any city, town-corporate, township or precinct in this colony, according to the directions, true intent and meaning of this act, herein before specified, is or are likely to become chargeable, such overseer or overseers shall and may apply to any two justices of the peace of such county, city or town-corporate, and inform them thereof, who are hereby required and empowered to issue their warrant to a constable, thereby commanding him to convene such person or persons before them, at such time and place as the said magistrates shall, in their warrant, appoint; and they shall examine every such person or persons, when brought before them, upon oath or affirmation, relating to his, her or their last place or places of legal settlement, and thereby finding the information given to them to be true and reasonable, they shall order and direct such person or persons, by a certain day by them to be prefixed, to remove to the place of his, her or their former settlement; and, on neglect or refusal to comply with the said order, the said magistrates shall issue their warrant to a constable, thereby commanding him to convey and deliver such person or persons to the constable of the next city, town-corporate, township or precinct, and so the nearest and most direct way from constable to constable, until he, she or they be conveyed to the place of his, her or their legal settlement: for all which

services he said constable shall be paid so much money as a justice of the peace and the overseer and overseers of any such county, city, town-corporate, township or precinct shall judge he or they reasonably deserve.

1774.

24. *And be it further enacted by the authority aforesaid,* That if any person or persons, removed as aforesaid, shall return to the place from whence he, she or they were so removed, with intent to remain there, and shall not depart such place within twenty-four hours after notice to him, her or them given to that purpose, by any one overseer of the poor of such place; in that case it shall and may be lawful for such overseer to make complaint to some magistrate of the county, city, or town-corporate, where such persons do return, who is hereby required to order any constable of the city, town-corporate, township or precinct, to whip such person or persons on the bare back with not less than ten, or more than fifteen lashes, being a male; and if a female, in the discretion of the magistrate, either to send her away again, or to commit her to close confinement, to be fed at the expense of the township on bread and water only, for such time as the said magistrate shall think proper, and then to send him, her or them back again to the place whither he, she or they, were first ordered and removed to in manner aforesaid, and so as often as the case shall happen: and if any constable shall refuse to perform the service herein directed, he shall forfeit and pay the sum of forty shillings, to the use of the poor of such place; and, on refusal to pay the same, such magistrate shall issue execution against him for the penalty and costs, as in other cases is provided and directed. *Provided always,* That if any person or persons, complained against as aforesaid, shall enter into bond, with two good and sufficient sureties, in the sum of fifty pounds, with condition to indemnify, and save harmless the city, town-corporate, township or precinct from all charges and expenses, to which the same may be liable by such person or persons being resident there, then, in such case, he, she or they shall not be removed as herein before is directed, any thing in this act to the contrary thereof, in anywise notwithstanding; which bond shall be taken before a magistrate, who shall deliver the same to one of the overseers of the poor of the place so intended to be kept harmless, and he shall safely keep the said bond, and deliver it to his next successor.

Person returning after removal, to be punished and sent back.

25. *And be it further enacted by the authority aforesaid,* That if any person be removed by virtue of this act from one city, town-corporate, township or precinct to another within this colony, by warrant under the hands and seals of two justices of the peace, as above, the overseer or overseers of the poor of that place, to which such poor person shall be so removed as aforesaid, are hereby required to receive the said person; and if he or they shall refuse so to do, such overseer or overseers, so refusing or neglecting, upon proof thereof by one credible witness, upon oath or affirmation, before any justice of the peace of the county, city or town-corporate, in which the place is situated whereto such person shall be so removed, shall forfeit and pay for each

Overseers required to receive the pauper on removal.

1774.

offence, the sum of five pounds, to the use of the poor of the place from which the said person was removed, to be levied by distress and sale, in the usual manner, of such offender's or offenders' goods and chattels, by warrant under the hand and seal of the said justice, directed to the constable of the place where such offender or offenders do dwell.

Appeal given.

What justice
may not sit on
the appeal.

Notice of ap-
peal, how to
be given.

26. *Provided always, and be it further enacted,* That all and every such person or persons, who shall think him or themselves aggrieved by any such warrant of removal, granted by two justices of the peace, or by such removal of any poor person as aforesaid, may appeal to the next general quarter-sessions of the peace of the county, city or borough, wherein such removal shall happen, and the poor person be removed from: and that no justice of the peace, who shall reside in any city, town-corporate, township or precinct, where the dispute or debate shall happen, shall sit in court upon any such appeal; and no appeal as aforesaid shall be proceeded upon in such court of quarter-sessions, unless reasonable notice be given in writing by the overseer or overseers of the poor, who shall make such appeal, to the overseer or overseers of the poor of such place, from which the poor person shall be removed, the reasonableness of which notice shall be determined by the justices of the peace at the quarter-sessions to which the appeal is made: and if it shall appear to them that reasonable time of notice was not given, then they shall adjourn the said appeal to the next quarter-sessions, and then and there hear and determine the same.

Defects of
form to be
amended.

27. *And be it enacted by the authority aforesaid,* That upon all appeals to be made to the justices of the peace at their respective courts of general quarter-sessions of the peace to be holden for any county, city or borough, within this province of New-Jersey, against judgments or orders given or made by any justices of the peace for the removal of any pauper or paupers, such justices so assembled at any court of general quarter-sessions of the peace shall, and they are hereby required from time to time, upon all and every such appeals so made to them, to cause any defect or defects of form that shall be found in any such original judgments or orders to be rectified and amended, without any cost and charge to the party concerned; and, after such amendment made, to proceed to hear and determine the same in the usual manner, and to make such determination thereon as by law they ought to have done in case there had not been such defect or want of form in the original proceedings; and in case the said courts of quarter-sessions shall not rectify and amend such original judgments or orders, and the same judgments or orders shall be removed into the supreme court, such supreme court shall and may have equal authority, and are hereby enjoined to amend any such original orders or judgments, any law, usage or custom to the contrary notwithstanding.

Charges and
costs given
upon undue
removals.

28. *And, for the preventing vexatious removals and frivolous appeals, Be it enacted by the authority aforesaid,* That from and after the publication of this act, if the justices of the peace shall, at their quarter-sessions, upon an appeal before them there had,

1774.

concerning the settlement of any poor person or persons, determine in favor of the appellant or appellants, that such poor person or persons was or were unduly removed; that then the said justices shall, at the same quarter-sessions, order and award to such appellant or appellants so much money as shall appear, to the said justices, to have been reasonably paid and expended by the city, town-corporate, township or precinct, on whose behalf such appeal was made, for or towards the relief of such poor person or persons, between the time of such undue removal and the determination of such appeal; and upon any appeal before them there to be had for and concerning the settlement of any poor persons, or upon any proof before them, there to be made of notice of any such appeal to have been given by the overseer or overseers, of the one place, to the overseer or overseers of the other, though they did not afterwards prosecute such appeal, the said justices shall, at the same quarter-session, award and order to the party for whom, and in whose behalf, such appeal shall be determined, or to whom such notice did appear to have been given as aforesaid, such costs and charges in the law as by the justices, in their discretion, shall be thought most reasonable and just, to be paid by the overseer or overseers of the poor, against whom such appeal shall be determined, or who gave notice of such appeal as aforesaid, and did not prosecute the same.

29. *And whereas* the person or persons, against whom such award and order shall be made, may reside in some county, city, or town-corporate, out of the jurisdiction of the said court of quarter-sessions, whereby the recovery of the sum or sums of money so awarded and ordered, may be rendered difficult and precarious; therefore, *Be it enacted by the authority aforesaid,* That all such sum and sums of money, which shall be awarded and ordered to be paid by the justices in their said quarter-sessions, in the case and cases aforementioned, shall and may be sued for and recovered with costs of suit, by action of debt, in any court of record of any county, city or town-corporate in this colony, where the person or persons shall reside, against whom such determination shall be given as aforesaid; and a true copy of such award and order of such justices, in their quarter-sessions, signed and sealed by the clerk of the court, when produced, shall be sufficient evidence for the recovery of such sum or sums of money so awarded and ordered as aforesaid.

Persons may
be sued where
they reside.

32. *And be it further enacted by the authority aforesaid,* That all former acts and laws of this colony, relating to the settlement and relief of the poor, and every matter, article and thing therein contained, are and shall be hereby repealed and declared to be null and void, and of none effect, excepting such acts and laws as have been for building of a workhouse, and setting the poor to work and labor in any of the counties, cities, towns-corporate or townships within this colony. *Provided always,* That if any person or persons have, by virtue of any former act or acts of this colony, gained a settlement in any city, town or precinct of this colony, such settlement shall not be altered by any thing herein contained.

Former poor
laws repealed,
but all settle-
ments under
them confirm-
ed.

1774.

Vagrants, how
to be treated.

33. *And whereas* the number of idle vagrants, vagabonds and beggars do daily increase, who infest the public highways, cities and townships in this colony, insomuch that they are become a public nuisance, and a dangerous annoyance to honest industrious people; to prevent, therefore, the increase and continuance of this pernicious evil, *Be it further enacted by the authority aforesaid,* That it shall and may be lawful for the constable or constables, or any of the inhabitants of this colony, to apprehend any idle vagrants, vagabonds and beggars, who shall be found wandering, strolling and begging about the country, and to carry him, her or them forthwith before any one justice of the peace of the county, city or town-corporate where they shall be apprehended, who is hereby required to examine every such person and persons so brought before him, upon oath or affirmation of his, her or their place of settlement, and shall take the examination in writing, and oblige the examinant to sign the same: and the said justice shall also sign the same, and shall transmit it to the clerk of the city, town-corporate, township or precinct, where such person or persons shall be apprehended, to be filed, and to be kept on record: and in case it shall appear, that any such idle vagrant, vagabond or beggar hath any place of settlement, then the justice of the peace is required to make out a pass warrant, and to give it to the constable of the city, town-corporate, township or precinct, where such person or persons shall be apprehended, commanding him to deliver such vagrant, vagabond or beggar to the constable of the next place, and so from constable to constable the readiest way to his, her or their place of settlement; but if such vagrant, vagabond or beggar hath no place of settlement in this colony, then the said justice of the peace shall order, by his pass warrant, that he, she or they shall be conveyed back by every city, town-corporate, township or precinct through which they have been suffered to stroll and wander unapprehended, and so to be transported out of this colony, and to be set on shore in that province, from which he, she or they strolled and wandered first into this colony; and if such idle vagrant, vagabond or beggar shall return into this colony, after having been so passed out as aforesaid, he or she shall be apprehended and carried before any justice of the peace of the county, city or town-corporate, where he or she shall be so apprehended; which justice of the peace shall order the constable of the said place, to carry him, her or them to the whipping post, and to strip him, her or them to the bare back, and to give them a number of lashes, not exceeding twenty; after which he, she or they shall be passed out of the colony again, in the same manner and form as before directed, and so to be whipped and passed away as often as they shall return. And if any justice of the peace, or constable, shall neglect or refuse to do and perform the duties hereby required of him, every such justice of the peace, or constable, shall forfeit and pay the sum of forty shillings, for every such neglect or refusal, which shall be recovered by action of debt, in the usual manner, and shall be applied, one moiety to the use of the poor, where the offence shall be committed, and the other moiety to the person who shall prosecute the same to effect.

34. *And be it further enacted by the authority aforesaid, That* all poor indigent persons strolling from their places of legal settlement, and craving alms; all persons coming out of other colonies, and begging about this colony, under pretence of losses by fire, or having their goods and effects destroyed by the Indians, and not being able to produce a license to ask charity, under the hand of the commander in chief of this colony; all persons peddling about without a legal license for that purpose; all straggling persons, who shall practise any unlawful gaming, to trick and deceive the people; all persons who shall run away from their families, and leave them to be maintained by the public, are and shall be deemed and esteemed vagrants and vagabonds, within the true intent and meaning of this act.

1774.

Who shall be deemed vagrants.

35. *Provided always, That* in case any appeal as aforesaid, shall be offered to the second court of quarter-sessions, after such judgment or removal as aforesaid, and the said court shall be satisfied with the reasons given for every such delay, that then it shall and may be lawful for the said court to hear and determine such appeal in the same manner as if the same had been made to the next court of quarter-sessions as above, any thing in this act to the contrary thereof notwithstanding.

Appeal to the second sessions given.

The 10th, 13th, 14th, 30th and 31st sections of this act are supplied by posterior laws.

See act, 10th of February, 1819; and supplement, 10th of June, 1820.

See act 1740, Allison 118; and 1768, Allison 222.

AN ACT for the more speedy recovery of legacies in this province, and for affirming such acts of administrators, bona fide done before notice of a will.

ALLIS. 442.
PAT. 36.

Passed the 11th of March, 1774.

FORASMUCH as the laws of this province, relating to the recovery of legacies, which have been or may be given by the last will and testament of any person or persons, are defective; for remedying whereof—

Preamble.

1. *BE IT ENACTED by the Governor, Council and General Assembly of this province, and it is hereby enacted by the authority of the same, That* from and after the publication of this act, it shall and may be lawful for any person or persons whatsoever, to whom any legacy, devise or bequest of any sum or sums of money, or other personal goods or chattels have been or may be made, by the last will and testament of any other person or persons legally made, to commence, sue or prosecute an action of debt, action on the case, or detinue for such legacy, after it becomes due, if it amounts to the value of fifteen pounds or upwards, in the supreme courts of this province, or any other court of record; and if under fifteen pounds, in any court where the same may be cognizable; in which action or actions so to be commenced, if it shall appear that the legacy or

Legatees may institute an action of debt, on the case, or detinue, for legacies or bequests.

1774.

legacies are due, and there be sufficient assets in the hands of the executors to discharge the just debts of the testator, and the legacy and legacies bequeathed, the plaintiff or plaintiffs shall recover, with costs of suit, any law, usage or custom to the contrary notwithstanding. But in case there shall be assets to discharge all the debts of the testator, with an overplus not amounting to a sum sufficient to discharge all the legacies that may be given, then an abatement shall be made in proportion to the legacies so given; and where any legatee or legatees are or may be under age at the time when such legacy or legacies shall become due, in such case such legatee or legatees shall and may maintain an action for their respective legacies so given, by guardian or next friend, as fully, amply and largely as by law they may do in any other actions whatsoever.

Upon plea of want of assets to pay debts and legacies, auditors to be appointed to examine the accounts of the executors, and to report thereon

2. *And be it further enacted by the authority aforesaid, That the respective courts, where the said actions may be commenced, upon the plea of want of assets to pay all the debts and all the legacies, shall appoint auditors to examine the accounts of the executors, who, after full hearing thereof, at such time and place, or times and places, as by the said auditors shall be appointed, with notice to the executors and the plaintiffs or their respective attorneys, shall procure the auditors aforesaid, to report how the accounts of the executors do stand, and how much assets will remain after payment of the whole debts, and what part of the remainder is the proportion that ought to go towards paying of the plaintiff's legacies, for which proportion only the court shall then award execution upon the judgment to be had in the said suit; which judgment shall remain a security for payment of the remainder of the said legacies and costs, when sufficient assets for payment thereof come to the executor's hands; which court is also hereby empowered, upon exception of either party, and hearing of the parties, to correct and amend any mistakes or errors that may happen in the accounts so reported.*

Before any action be commenced, the legatee to give bond, with surety.

3. *Provided always, That no such suit shall be maintained for any such legacy or bequest, until reasonable demand made of the executor or executors, who ought to pay the same, and an offer made of two sufficient securities to the said executor or executors, who, if they think proper to accept thereof, shall become bound to them, the said executor or executors, in double the sum of the said legacies or bequests, with condition under written, that if any part or the whole thereof, shall at any time after appear to be wanting to discharge any debt or debts, legacy or legacies, which the said executor or executors may not have other assets to pay, that then and in such case, he, the said legatee, will return his said legacy, or such part thereof as may be necessary for the payment of the said debts, or for the payment of a proportional part of the said legacies; and if the said executors should not think proper to accept thereof, then the said legatees shall file such bond in court, before obtaining any process against the said executors, otherwise the same process, for want thereof, shall abate.*

4. *And be it enacted by the authority aforesaid,* That the said courts, upon consideration of the report of the accounts of the executors, shall, according to justice and equity, either award no costs, or costs out of the testator's estate, or in case the executors have been faulty in delaying to pay the legacy demanded, or a proportional part thereof, without sufficient excuse, then out of the proper estate of the executor or executors, any thing herein contained to the contrary notwithstanding.

1777.

Costs, how to be awarded.

5. *And be it further enacted,* That all lawful acts done, or to be done bona fide, by any administrator, before notice of a will, and all purchases made of such administrator bona fide, before such notice, shall remain good, and shall not be impeached or altered by any executor or executors, on such will after appearing. *Provided always,* That when, at any time after such will shall appear, the executor or executors shall have the same remedy against such administrator or administrators, for the goods and chattels, rights and credits remaining unadministered, as he, she or they might have had before the making of this act.

All bona fide acts of administrators, before notice of a will, good.

6. *Provided also,* That where there are or may be several legatees, and a return of part of the said legacy shall afterwards appear necessary, in such case each legatee shall only be compelled to return a proportional part of his legacy, so as to make up the whole sum wanting.

Legatees, when to refund

7. *Provided also,* That where no time in and by any last will and testament is limited, for the payment of any such legacies, that then and in such case, the said executor or executors shall have the space of one year to discharge the same.

Executors to have a year to pay legacies.

8. *Provided also,* That nothing in this act contained shall be construed to enforce the payment of any legacies to the prejudice of creditors, or to enforce any last will and testament, not warranted by the former laws of this province.

Creditors to be first paid.

9. *And be it further enacted by the authority aforesaid,* That the act passed in the fourth year of the reign of king George the second, entitled "An act for the more speedy recovery of legacies, that have been or may be given in this province, and for affirming such acts of administrators bona fide done before notice of a will," and the act passed in the twelfth year of the reign of king George the second, entitled "An act for continuing an act, entitled an act for the more speedy recovery of legacies that have been or may be given in this province, and for affirming such acts of administrators bona fide done before notice of a will," shall be, and they are hereby repealed.

Repeal of former laws.

AN ACT to ascertain the punishment for high treason, and to establish the word state instead of colony in commissions, writs and other process; and for other purposes therein mentioned.

PAT. 38.

Passed the 20th of September, 1777.

WHEREAS some doubts may arise in the courts of judicature, respecting the sentence in high treason, the same not being as yet precisely ascertained; therefore—

Preamble.

1778.

Sentence in
high treason
to be the same
as in murder.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That when any person shall be duly convicted of high treason, the sentence awarded therefor, so far as respects the corporal punishment to be inflicted on the offender, shall be the same as in case of murder.

Establishment
of the word
state, instead
of colony.

2. *And whereas* in the fifteenth section of the constitution of New-Jersey, it is directed and ordained, that all commissions shall run thus, "The colony of New-Jersey to A. B., &c. greeting;" and that all writs shall likewise run in the name of the colony: and that all indictments shall conclude in the following manner, videlicet, "Against the peace of this colony, the government and dignity of the same;" *and whereas*, since the framing of the said constitution, the honorable congress have declared the united colonies free and independent states: *and also whereas*, since the declaration of independency, the commissions and writs have run in the name of the state, and not of the colony of New-Jersey, and indictments have concluded against the peace of this state, and not of this colony, and some doubts may arise respecting the validity of commissions, writs and indictments, so as aforesaid worded; *Be it therefore enacted by the authority aforesaid*, That from and after the publication of this act, all commissions and writs, which, by the constitution are required to run in the name of the colony, shall run in the name of the state of New-Jersey; and all indictments shall conclude against the peace of this state, the government and dignity of the same; and that all commissions, writs and indictments, heretofore issued, preferred and exhibited, which have the word state, and not the word colony, shall be, and they hereby are declared to be good and effectual in the law.

PAT. 39.

AN ACT for taking charge of and leasing the real estates, and for forfeiting the personal estates of certain fugitives and offenders, and for enlarging and continuing the powers of commissioners appointed to seize and dispose of such personal estates, and for ascertaining and discharging the lawful debts and claims thereon.

Passed the 18th of April, 1778.

PAT. 39.

AN ACT to prevent the farming out of public offices, or transferring by deputation the powers annexed and incident to them; and for other purposes therein mentioned.

Passed the 8th of October, 1778.

Preamble.

WHEREAS no person, who holds an office in this state, under an appointment of the joint-meeting, is, by the constitution, authorized to let or farm out such office, or to depute any person to execute the same in his behalf or stead; and it being not only reasonable, but a great security against malepractices,

that every person holding an office, and in whom the trust thereof is reposed, should reside within this state, and execute such office; and also, that every person, holding an office, which relates to a county only, should reside within such county—

1778.

1. *BE IT THEREFORE ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That each and every person holding, or who shall hereafter hold any office in this state, under an appointment of the joint-meeting, shall reside within this state, and execute such office, except the surrogate-general, who shall be at liberty to employ or appoint a deputy or deputies, and also, that every person holding an office, the authority and duties of which relate to a county only, shall reside within such county; and if any person holding, or who shall hereafter hold any office as aforesaid, shall at any time presume to let, farm out or transfer such office, or any part thereof, to any person or persons whatsoever, he shall for such offence forfeit the sum of five hundred pounds, to be recovered with full costs of suit, by any person, who will sue for the same, one half to the prosecutor, and the other half to the treasurer, for the use of the state, and shall, moreover, be liable to be removed from his office, by the council, on an impeachment of the assembly, as provided and set forth in the constitution.

Conditions on which public offices may be held.

Forfeiture.

3. *And it is hereby further enacted,* That if any secretary of this state shall at any time neglect or refuse to issue a commission to any person elected to any office within this state, requiring a commission from the governor, or shall take fees for any commission, where by law he is not entitled to fees, or, where he is entitled to fees, shall take more than by law he is entitled to take, he shall for every such offence forfeit the sum of fifty pounds, to be recovered, with costs of suit, by any person who will sue for the same, one half to the prosecutor, and the other half to the treasurer, for the use of the state.

Secretary neglecting his duty, what to forfeit.

4. *And whereas* it is highly expedient and proper, that every officer, resigning an office, should make the resignation to the department of government from which the office is derived, and whose duty it is to supply the vacancy when deemed necessary; *Be it therefore enacted by the authority aforesaid,* That in every case in which any officer, holding an office under the appointment of the joint-meeting, shall be desirous of resigning such office, the resignation shall be made during the sitting of the legislature, and to the members thereof in joint-meeting, by such officer in person attending for that purpose, or by letter or other writing under his hand, addressed to the joint-meeting: and that no resignation, made in any other way, or pretended to be made, shall be taken or deemed as valid or authentic, or in anywise allowed as an application for a discharge from office.

Mode of resigning offices.

1782.

PAT. 39.

AN ACT for authorizing persons elected sheriffs and coroners to act in their respective offices before they are commissioned.

Passed the 8th of October, 1778.

Preamble.

AS sheriffs and coroners derive their authority immediately from the people, their commissions being only testimonials, under the great seal of the state, of their having been duly elected into office; and as some time must necessarily intervene between their election and obtaining their commissions—

Sheriffs and coroners may act before commissioned.

BE IT THEREFORE ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That each and every sheriff and coroner, hereafter elected, shall, on the receipt of such certificate of his election as shall be necessary for obtaining a commission from the governor or vice-president of the council, pursuant to the constitution and laws of this state, be, and he is hereby authorized and empowered to act in and execute such his office of sheriff or coroner, as fully to all intents and purposes as he will be after he has received his commission. *Provided always*, That he applies for the same within one month after his election.

Proviso.

See act concerning sheriffs, 18th March, 1796.

PAT. 40.

AN ACT for forfeiting to, and vesting in the state of New-Jersey, the real estates of certain fugitives and offenders, and for directing the mode of determining and satisfying the lawful debts and demands, which may be due from, or made against, such fugitives and offenders; and for other purposes therein mentioned

Passed the 11th of December, 1778.

PAT. 44.

AN ACT to repeal sundry acts for augmenting the fines and fees of civil officers, and others.

Passed the 6th of October, 1780.

PAT. 45.

AN ACT to repeal sundry acts restricting the trade and commerce of this state.

Passed the 8th of June, 1781.

PAT. 45.

AN ACT for the relief of persons, who have lost their deeds and other instruments of writing, containing the title of their lands.

Passed the 3d of October, 1782.

Preamble.

WHEREAS many of the inhabitants of this state have lost, or may hereafter lose, their deeds or other instruments of writing, containing the title of their lands, by the devastation of the

enemy, or other unavoidable accident, whereby much injury may arise to the said inhabitants, by reason that the said deeds or instruments of writing have not been duly proved and recorded, and the means of obtaining new deeds or conveyances, for securing their possessions, may be unattainable—

1782.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That every person, who has lost, or may hereafter lose his deeds, or other instruments of writing, containing the title of his lands, by the devastation of the enemy, or other unavoidable accident, and shall be desirous of having the said land assured to him, in manner herein after directed in this act, shall make out, or cause to be made out, an exact survey of the lands or premises, the title deeds, or conveyances for which may have been lost as aforesaid, containing the courses, distances and boundaries thereof, or an attested copy of the original survey and boundaries, extracted out of the public records, and shall produce the same to the supreme court of this state, having previously advertised the purport of his application, for at least three months in one of the public newspapers of this state, and also for the same time, in at least three of the most public places in the county, where the lands or premises, the title or conveyance of which may have been lost as aforesaid, are situated, and shall by evidence, prove to the satisfaction of the court, or in case of the death of the witnesses, or their having joined the enemy, and that no other evidence can be procured, on oath or affirmation before the said court, declare, that he or his ancestors were possessed of a legal conveyance therefor duly executed, and that the same was lost or destroyed by the enemy, or by other unavoidable accident, together with the time and manner of the loss or destruction of the same, and that the evidences or witnesses to the said deeds or conveyances are dead, or have joined the enemy, or cannot be procured, to the best of his knowledge and belief; and shall also prove by the testimony of one, or more credible witness, that he, the said applicant, had peaceable possession of the said lands and premises, previous to the time when the deeds or conveyances for the same, are alleged to have been lost or destroyed. *Provided always*, That if, through the obstinacy of any person claiming, or possessing lands adjoining to the premises of the persons claiming the benefit of this act, it shall be found impracticable to obtain an exact survey, containing the courses, boundaries and distances to be presented to the court as aforesaid, it shall be sufficient to produce the exact boundaries only, attested by proper evidence, or authenticated on the oath or affirmation of the applicant.

Mode of application to the supreme court, where conveyances have been lost

Proviso.

2. And be it further enacted, That the said court shall, thereupon, cause proclamation to be made in open court, for two terms successively, of the purport of the application so made as aforesaid, that if any person or persons have any objection, or can shew any cause, why the said survey and testimony, produced as aforesaid, should not be recorded, or why the request of

Proclamation to be made, for two terms of such application.

1782.

the said applicant should not be granted, such person or persons may appear and support the same, at least within the third term after application has been made, as aforesaid.

Survey and testimony to be filed and entered, which shall have the effect of a deed.

3. *And be it further enacted by the authority aforesaid,* That the said court shall, and they are hereby authorized and required, if no sufficient objection appear, and if the survey so produced, and the evidence and testimony so given, shall, in the judgment of the said court, be sufficient to entitle the applicant to the relief intended to be given by this act, to give judgment accordingly, and thereupon to order the said survey and testimony to be filed and entered in the minutes of the said court, a copy of which minutes, signed by the clerk of the said court, and under the seal of the same, shall be good and available in law, to assure the lands and premises so surveyed and entered, and to vest the same in the said applicant, as fully, amply and effectually, to all intents and purposes whatsoever, as he was, or would have been vested with the same, in virtue of any conveyance, lost or destroyed in manner aforesaid, which said minutes, may, at any time after the same is obtained by the applicant, be entered on the public records of this state.

Judges may issue writs of subpoena, for witnesses.

4. *And be it further enacted by the authority aforesaid,* That the chief justice, or either of the justices of the supreme court, shall be, and hereby is authorized and required, on application to him made for that purpose, to issue a writ of subpoena, to compel the attendance of witnesses, to prove the facts set forth by any person applying for the relief intended by this act, in like manner as in other cases in the usual course of law.

PAT. 46.

AN ACT to divide the township of Hardwick, in the county of Sussex.

Passed the 11th of November, 1782.

Preamble.

WHEREAS a number of the inhabitants of the township of Hardwick, in the county of Sussex, by their petition, have set forth, that they have long labored under many and great difficulties by reason of the large extent of the said township; for remedy whereof—

New township set off from Hardwick; its boundaries, and name.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the said township of Hardwick, included in the following boundaries, viz. beginning at Pequest river in the division line between Hardwick and Newtown; thence running by said division line, south eleven degrees east, eight miles, to Musconetkong river to a white-oak tree; thence down the said river seven miles and three quarters, to a tree for a corner; thence north, sixty degrees west, six miles, to Pequest river; thence north, eleven degrees west, four miles, to a tree for a corner; thence north, sixty-four degrees and fifteen minutes east, nine miles, to a spruce tree standing on the bank of Pequest river at

the turn of said river, called and known by the name of the spruce bank; thence up the said river two miles to the place of beginning; shall be, and is hereby set off from the township of Hardwick, and made a separate township, to be called by the name of the township of Independence.

1783.

AN ACT to repeal the several acts therein named.

PAT. 47.

Passed the 5th of December, 1782.

AN ACT to ratify and confirm an agreement, made between commissioners appointed by the legislature of the state of Pennsylvania, and commissioners appointed by the legislature of the state of New-Jersey, for the purpose of settling the jurisdiction of the river Delaware, and islands within the same.

PAT. 47.

Passed the 27th of May, 1783.

WHEREAS commissioners, duly appointed on the part of the state of Pennsylvania, and commissioners, duly appointed on the part of the state of New-Jersey, for the purpose of settling the jurisdiction of the river Delaware and islands within the same, have executed two instruments of an agreement for the purposes aforesaid, one for each state, which agreement is contained in the following words—

Preamble.

An agreement made and concluded between George Bryan, George Gray and William Bingham, commissioners appointed by the legislature of the state of Pennsylvania, for settling the jurisdiction of the river Delaware, and islands within the same, and Abraham Clark, Joseph Cooper and Thomas Henderson, commissioners, appointed by the legislature of the state of New-Jersey, for the like purpose.

Recital of an agreement between Pennsylvania and New-Jersey, respecting jurisdiction over islands in the Delaware.

WHEREAS inconveniencies and mischiefs have arisen, and may hereafter arise, from the uncertainty of jurisdiction within and on the river Delaware; therefore to prevent the same, and in order that law and justice may hereafter, in all cases be executed and take effect within and upon the said river, from shore to shore, in all parts and places thereof, where the same river is the boundary between the said states, the said commissioners do agree and establish, for and in behalf of their respective states, in manner following, that is to say—

First. It is declared, that the river Delaware from the station point, or north-west corner of New-Jersey, northerly, to the place upon the said river, where the circular boundary of the state of Delaware toucheth upon the same, in the whole length and breadth thereof, is, and shall continue to be, and remain a common highway, equally free and open for the use, benefit and advantage of the said contracting parties. *Provided nevertheless,* That each of the legislatures of said states, shall hold and exercise the right of regulating and guarding the fisheries, on the said

1793.

river Delaware, annexed to their respective shores, in such manner, that the said fisheries may not be unnecessarily interrupted, during the season for catching shad, by vessels riding at anchor on the fishing ground, or by persons fishing under claim of a common right on said river.

Secondly. That each state shall enjoy and exercise a concurrent jurisdiction, within and upon the water, and not upon the dry land, between the shores of said river, but in such sort, nevertheless, that every ship and other vessel, while riding at anchor, before any city or town in either state, where she hath last laded or unladed, or where it is intended she shall first thereafter either lade or unlade, shall be considered, exclusively, within the jurisdiction of such state; and every vessel fastened to, or aground on, the shore of either state, shall, in like manner, be considered, exclusively, within the jurisdiction of such state; but that all capital and other offences, trespasses or damages, committed on said river, the juridical investigation and determination thereof, shall be exclusively vested in the state wherein the offender, or person charged with such offence, shall be first apprehended, arrested or prosecuted.

Thirdly. That all islands, islets and dry land within the bed, and between the shores of the said river, and between the said station point, northerly, and the falls of Trenton, southerly, shall, as to jurisdiction, be hereafter deemed and considered as parts and parcels of the state, to which such insulated dry land doth lie nearest, at the time of making and executing this agreement; and that from said falls of Trenton, to the state of Delaware, southerly, Biles' island, near Trenton, Windmill island, opposite to Philadelphia, League island, Mud or Fort island, Hog island and Little Tinnicum islands, shall be annexed to the state of Pennsylvania, and considered as parts and parcels thereof; and that Biddle's or Newbold's island, Burlington island, Petty's islands, Redbank island, Harmanus Helm's island, Chester island and Shiverse's island, shall be annexed to the state of New-Jersey, and considered as parts and parcels thereof; and that all other islands within said river, between the falls of Trenton and the state of Delaware, which are not herein before particularly enumerated, shall be hereafter deemed and considered as parts and parcels of the state, to which such island doth lie nearest, at the date hereof; and that all islands which may hereafter be formed within the said river, shall be classed and annexed to the jurisdiction of either state, according to the same principle.

Fourthly. That this present agreement, and every article and clause therein contained, shall be suspended and take no effect until each of the legislatures of the state of Pennsylvania and New-Jersey respectively, shall have passed laws approving of and ratifying the same; which being done, the said agreement shall then be considered as a joint compact between the said states, and the citizens thereof respectively, and be for ever thereafter irrevocable by either of the said contracting states, without the concurrence of the other. In witness whereof, we, the commissioners of the aforesaid states, have set our hands and seals

to two instruments of the agreement, one for each state, dated this twenty-sixth day of April, Anno Domini, one thousand seven hundred and eighty-three.

1783.

ABRAHAM CLARK,	(L. S.)	GEORGE BRYAN,	(L. S.)
JOSEPH COOPER,	(L. S.)	GEORGE GRAY,	(L. S.)
THOMAS HENDERSON,	(L. S.)	WM. BINGHAM,	(L. S.)

THEREFORE—

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the aforesaid agreement, and every article, clause, matter and thing therein contained, shall be, and the same is hereby fully and amply ratified and confirmed, and shall be and ever hereafter remain in force, agreeably to the true tenor and extent thereof.

The agreement confirmed.

AN ACT for directing the settlement of certain debts, contracted by the citizens of this state, previous to the thirteenth day of June, in the year of our Lord, one thousand seven hundred and eighty-one, on principles of equity.

PAT. 50.

Passed the 16th of June, 1783.

AN ACT to annex the several islands, situate in the river Delaware, belonging to this state, to the respective counties and townships, to which they lie nearest.

PAT. 50.

Passed the 26th of November, 1783.

WHEREAS in and by the act, entitled "An act to ratify and confirm an agreement made between commissioners appointed by the legislature of the state of Pennsylvania, and commissioners appointed by the legislature of the state of New-Jersey, for the purpose of settling the jurisdiction of the river Delaware, and islands within the same," there are many islands annexed to this state, and as it is necessary to annex the same to the particular counties and townships, so that civil government may be properly extended thereto, and public taxes recovered therefrom; therefore—

Preamble.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all islands, islets and dry land, annexed to the jurisdiction of this state, in and by the act, the title of which is recited in the preamble to this act, and lying between the station point, or northwest corner of New-Jersey, northerly, and the state of Delaware, southerly, shall hereafter be deemed and considered as parts and parcels of such counties and townships, to which said islands, or adjacent dry land do or doth lie nearest, except Petty's islands, which shall be annexed to the township of Newton, in the county

Islands, in the Delaware, belonging to this state, annexed to the contiguous counties, except Petty's islands:

1783.

of Gloucester; and the proprietors, or owners thereof, shall be subject to the payment of taxes, for the said islands, in the said counties and townships accordingly.

PAT. 52.

AN ACT for ascertaining the value of debts due from the forfeited estates of certain fugitives and offenders, and for directing the payment of the same.

Passed the 23d of December, 1783.

PAT. 53.

AN ACT to pass estates in fee by certain devises in wills and testaments, and to limit estates in tail.

Passed the 26th of August, 1784.

Preamble.

WHEREAS it frequently happens, that, in making wills and testaments, the words heirs and assigns, in devises of land, or other real estate, are omitted, through the ignorance or inattention of the writer, though the testator meant and intended to grant an absolute estate in the devised premises; and devises are sometimes made in tail, without limitation of time, whereby the heirs are put to great expense in suing out recoveries, in order to dock such entails; for remedy in which cases—

Devises of lands, in which the words, heirs and assigns, are omitted, how to be construed.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That, from and after the publication of this act, all devises made of land or other real estate, within this state, in which the words, heirs and assigns, or, heirs and assigns for ever, are omitted, and no expressions are contained in such will and testament, whereby it shall appear that such devise was intended to convey only an estate for life, and no further devise thereof being made of the devised premises, after the decease of the devisee, to whom the same shall be given; all such devises shall be taken and understood to be the intention of the testator, thereby to grant and devise an absolute estate in the same, and shall be construed, deemed and adjudged in all courts of law and equity, in this state, to convey an estate in fee-simple to the devisee, for all such devised premises, in as full a manner as if the same had been given or devised to such devisee, and to his heirs and assigns for ever; any law, usage or custom to the contrary notwithstanding.

2. Repealed. See act, 13th June, 1820.

PAT. 55.

AN ACT to repeal the three several acts therein mentioned.

Passed the 31st of August, 1784.

1784.

AN ACT to amend and explain an act, entitled, "An act for directing the settlement of certain debts, contracted by the citizens of this state, previous to the thirteenth day of June, in the year of our Lord, one thousand seven hundred and eighty-one, on principles of equity;" and to repeal an act, entitled, "An act for the relief of persons holding public securities, and for other purposes therein mentioned."

PAT. 59.

Passed the 8th of December, 1784.

AN ACT for erecting the north ward of Perth-Amboy, and a part of the township of Woodbridge, in the county of Middlesex, into a city; and for incorporating the same by the name and title of "The city of Perth-Amboy."

PAT. 64.

Passed the 21st of December, 1784.

WHEREAS the improvement of trade and navigation in this state is of the utmost importance to the well being of the same; and whereas the prosperity of trade requires the collection of merchants together in sufficient numbers, in order that the union of their force may render them competent to great undertakings, and that the variety of their importations and their wants may always furnish to the purchasers and to the sellers, a secure and constant market; and whereas it is necessary, in the present unprovided and disadvantageous condition of this state, to bestow on merchants peculiar immunities and privileges, in order to attract them to its harbors, and to secure to them, for a sufficient and definite duration, the entire profits of their commerce, without burden, abatement, or uncertainty, in order to excite in them a spirit of useful adventure, and to encourage them to encounter the risks and expenses of a new situation, and of important and beneficial undertakings: and in as much as commercial cities require a peculiar mode of government, for maintaining their internal police; and commercial transactions require more expeditious and summary tribunals than others; and whereas divers good citizens of this state, residing in different parts thereof, by their humble petition presented to the legislature, have set forth the great public utility of incorporating certain towns in the state, and of investing them with such powers, privileges, jurisdictions, and immunities, as shall conduce to the encouragement of commerce; and have prayed, that Perth-Amboy, aforesaid, may be incorporated for the said purposes: and whereas divers of the inhabitants of the said north ward of Perth-Amboy, and others in the vicinity thereof, by their humble petition to the legislature, have set forth, that for many years previous to the late revolution, the said north ward of Perth-Amboy, under, and by virtue of charters to them granted for that purpose, did hold, enjoy, and exercise many powers, privileges, and immunities, which they found greatly beneficial to the inhabitants thereof, and have prayed that the said charters, or one of them, so

Preamble.

1784.

far as may extend to the said north ward and a part of Woodbridge, may be revised, corrected and amended; or that a law for incorporating the said north ward, together with a part of the township of Woodbridge into a city and town-corporate, may be enacted—

Boundaries of
the city of
Perth-Amboy.

1. BE IT THEREFORE ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that tract of land and country, situate and being in the county of Middlesex, and lying within the limits and boundaries herein after mentioned, that is to say, beginning at the meeting of the waters of Raritan river, with the waters of the sound, that part of Staten-Island from the main, to the southward of the flat or shoal that runs off from Cole's point; thence up along the sound on the eastern bank of the channel, north-easterly and north-westerly, as the same runs to Woodbridge creek; thence up the said creek, to the creek that Cutter's mill stands on; then up the said creek, to a lane that leads to a line between George Herriott and Grace Innsley; thence along said lane until it intersects the road leading from Perth-Amboy to New-Brunswick; thence along said road, southerly, to a lane leading to Florida landing; thence along the said lane, to the north corner of the farm or plantation, late Samuel Nevill's, esquire; thence along the line of the same to Raritan river, and across the same, to the south bank of the channel thereof; thence down the same to the beginning; comprehending all the bays, harbors, creeks, rivers, and waters, within the said boundaries, shall be, and the same is hereby ordained, constituted and declared, to be from time to time and for ever hereafter, a city and town-corporate, and shall henceforth be called, known and distinguished by the name of, "The city of Perth-Amboy;" and all persons at present residing within the said limits and boundaries, or who shall hereafter reside within the same for the space of one year, and shall take the oaths or affirmations prescribed by law, for the security of the government established in this state, under the authority of the people, before the mayor, recorder, or one of the aldermen of, or before one of the judges or justices of the peace, in the said city, and shall file in the office of the clerk of the corporation, or of the town-clerk, a certificate thereof, which certificate, the officer, administering the same, is required to give, excepting only such persons who, during the late war, have been guilty of licentious cruelties in plundering, or murder, contrary to the usages of civilized nations, shall from thenceforth be freemen of the said city, and shall be entitled to have and receive the same protection of their persons and properties, which the citizens of the state are entitled to have and receive therein, any law, usage, or custom, to the contrary in anywise notwithstanding.

What persons
may be free-
men of the
said city, and
how.

To be, in the
city, a mayor,
recorder, three
aldermen, and
six common
council men,

2. And, for the preservation of the peace and good order, and for the better governing the said city, It is further enacted by the authority aforesaid, That there shall and may be, in the said city, one mayor, who shall be keeper of the city seal, one recorder, who, besides the said office of recorder, shall, in the absence of

1784

the mayor, have and execute the several offices annexed to the mayor, or any, or either of them, and such and so many aldermen, not exceeding three, as shall, from time to time, be found necessary to carry into execution the purposes of this act, which mayor, recorder, and aldermen, shall be justices of the peace ex officio; and six common council men; which mayor, recorder, aldermen and common council men, and their successors, are hereby made, constituted, and ordained, and they shall for ever hereafter be one body corporate and politic, and they the said body corporate and politic, shall and may have a perpetual succession in deed, fact, name and law, to be known and distinguished in all deeds, grants, bargains, sales, evidences, writings, muniments, or otherwise howsoever, by the name and style of, "The mayor, recorder, aldermen, and commonalty of the city of Perth-Amboy," and that they and their successors, by the same name of, "The mayor, recorder, aldermen, and commonalty of the city of Perth-Amboy," be, and forever hereafter shall be persons, capable and able in law to purchase, take, acquire, hold, receive, enjoy, have, and possess, messuages, houses, buildings, lands, tenements, rents, possessions, and other hereditaments, and real estate whatsoever, within or without the limits and boundaries of the said city, in fee-simple and for ever, or for term of life, or lives, or years, or in any other manner whatsoever; *Provided always*, That the annual income of such estate shall not exceed the sum of one thousand pounds, proclamation money of New-Jersey; and also goods and chattels, and all other things of what nature, kind, or quality soever: and also, that they and their successors, by the same name of, "The mayor, recorder, aldermen, and commonalty of the city of Perth-Amboy," shall and may, under the seal of the said city, or otherwise, give, grant, bargain, demise, assign, sell, and convey, or otherwise dispose of, all or any of the messuages, houses, buildings, lands, tenements, rents, possessions and other hereditaments, real estate, and all other goods and chattels, and things aforesaid, now or hereafter belonging, or to belong to the said city or corporation, in such manner and form, as to them shall seem meet, at their own will and pleasure; and also, that they and their successors, by the same name of, "The mayor, recorder, aldermen, and commonalty of the city of Perth-Amboy," be, and for ever hereafter shall be, persons capable and able in law, to sue and be sued, implead and be impleaded, appear, answer and be answered unto, defend and be defended, in any of the courts of judicature, either in law or equity, in this state, or elsewhere, in as full and ample manner and form, as any of the citizens or inhabitants of this state; and also that they, the said mayor, recorder, aldermen, and commonalty of the said city of Perth-Amboy, and their successors, shall and may make, and for ever hereafter have and use one common seal, the same may alter and break, and a new seal may make, have, and use as the common seal of the said city; the said common seal to be used for the sealing all and singular deeds, grants, conveyances, contracts, bonds, articles of agreement, assignments, powers, and authorities, and all and singular other instruments, affairs and business,

who shall be a body politic.

The corporation may hold lands, the annual income whereof shall not exceed £ 1000.

May sell and dispose of real and personal estate;

May sue and be sued;

And have a common seal.

1784.

Subordinate
officers to be
appointed.

anyways touching, concerning, and relating to the said corporation, or to the certifying or assuring of any matter or thing of a private nature, necessary to be certified, or assured by the said corporation, or by the mayor thereof in any of the offices appertaining to the mayoralty; and that there shall also be in the said city, one sheriff, one coroner, one marshal or sergeant at mace, each of whom shall be water bailiffs, one treasurer or chamberlain, one clerk of the corporation and of the several courts within and for the same, one clerk of the market, and one or more notary or notaries public, and so many other subordinate officers of the city and port, as the mayor, recorder, aldermen, and commonalty of the said city of Perth-Amboy, in common council assembled, shall think necessary; either for the better ordering and governing the said city, or for the convenience, safety and advantage of commerce; to be nominated, elected, appointed, chosen and sworn, as herein after is directed and mentioned.

Officers to
have notice of
their election,
and to take the
oath of alle-
giance and of
office.

3. *And be it enacted by the authority aforesaid,* That every officer to be elected by the freemen, or to be appointed by the common council of the said city of Perth-Amboy, shall be notified of his election or appointment by the clerk of the corporation, within three days after his election or appointment, and shall, within three days thereafter, take the oath or affirmation prescribed by law for the security of the government, and also an oath or affirmation of office, which oath or affirmation of office shall be, truly, faithfully and impartially to discharge and execute the trust, or trusts, reposed in him by the said office or offices, as the case may be, without favor to any, to the best of his judgment, so long as he shall continue in the said office or offices: and if any or either of them shall refuse or neglect to take the said oaths or affirmations, for three days after being notified of his election or appointment, as aforesaid, his election or appointment shall be void, and there shall be another election or appointment to fill the vacancy.

The mayor, re-
corder, and
aldermen to
be appointed
by the legisla-
ture.

Their duration
in office.

4. *And be it further enacted by the authority aforesaid,* That the mayor, recorder, and aldermen of the said city of Perth-Amboy, shall be appointed by the council and general assembly of this state in joint-meeting, to remain in office for the same space of time, and shall be commissioned by the governor in the same manner, as the judges and justices of the peace in the several counties in this state are appointed and commissioned; and they the said mayor, recorder, and aldermen, shall severally take the requisite oaths or affirmations within three days after the receipt of their commissions; or his or their appointment or appointments shall be void; and each and every of them the said mayor, recorder, and aldermen, shall be amenable to, and removable by, the council and general assembly, in the same manner, as judges and justices of the peace are amenable to, or removable by them.

To whom
amenable, and
by whom, and
for what re-
movable.

Freemen only
to be elected
mayor, record-
er, and alder-
men.

5. *And be it further enacted by the authority aforesaid,* That no person shall be appointed mayor, recorder, or alderman, of the said city, unless he shall be a freeman of the same, possessed of a freehold estate therein, and the said mayor shall, within the time herein before limited, take the oath or affirmation herein

before prescribed, before any of the judges of the pleas, or justices of the peace, of the county of Middlesex; and the said recorder and aldermen shall, within the said time, take the said oath or affirmation before the mayor, or any of the said judges or justices; and every other officer to be chosen or appointed, shall take the said oath or affirmation before the mayor, recorder, or one of the aldermen.

1784.

In what time, and before whom, such officers shall take the necessary oaths.

6. *And be it further enacted by the authority aforesaid*, That the freemen of the said city of Perth-Amboy, at the annual town-meeting, to be held on the second Tuesday in March, shall choose, by plurality of votes, for the said city, all the accustomed officers, directed by any statute of this state to be chosen within the several townships and precincts thereof, any thing in this act to the contrary thereof notwithstanding; and at the same time they, the said freemen, shall, in like manner, elect the common council men, sheriff, coroner, and marshal or sergeant at mace, who shall continue in office until the next annual election, and thereafter until other fit persons shall be chosen and sworn into the said offices; and in case of death, removal, refusal, or other disability, in any of the said officers, to serve in, or execute the said offices, a town-meeting shall be summoned to elect another, or other fit person or persons instead of him or them so disqualified; and the freemen of the said city, who shall assemble and meet together at the time and place to be appointed for that purpose, on the days of annual or special town-meetings, shall constitute a town-meeting, and the votes of the said freemen so met, or of the major part of them, shall be deemed, esteemed, and taken to be the votes of the city.

What officers to be elected, and when, by the freemen of the city.

How long to continue in office.

In case of death, &c. others to be chosen.

The freemen, who shall assemble, shall constitute a town meeting.

7. *And be it further enacted by the authority aforesaid*, That the treasurer or chamberlain shall be appointed by the mayor, recorder, aldermen and commonalty, and shall continue in office one year, and thereafter until a fit person shall be appointed to the said office; and the clerk of the corporation and of the courts, the clerk of the market and the notary or notaries public, shall be appointed in like manner, and shall continue in their respective offices for three years, and from thence until other fit person or persons shall be appointed to said office or offices, provided such extra continuance does not exceed one month; and each and every of the subordinate officers of the said city, shall, in like manner, be appointed and continue in office during good behaviour; and all officers of the city or port, to be chosen by the freemen, or appointed by the common council, shall be amenable to the mayor, recorder, aldermen and commonalty of the said city, and for malepractices in office, may be removed from their said offices, according to such modes and forms, as by the by-laws and ordinances of the said city, shall be established.

The corporation to choose the treasurer, clerk, and notaries public.

Their continuance in office.

Subordinate officers to continue during good behaviour.

All the officers amenable to and removable by the corporation.

8. *And be it further enacted by the authority aforesaid*, That the sheriff, when chosen, shall be commissioned by the governor, and vested with all the powers and authorities, and entitled to all the privileges within the said city, and subject to all the penalties for neglect of duty, which the sheriffs in the several counties within this state are vested with, entitled or subject to,

Sheriffs to be commissioned by the governor. Their powers and duties.

1794.

in like cases and circumstances, and shall give security for the due performance of his office, in like manner; and in all cases where he cannot, according to the laws and customs of the state, execute his office, the same shall be executed by the marshal, or by the coroner, or by such other fit person as the corporation court shall appoint; and the constables, chosen by virtue of this act, shall be vested with all the powers and authorities, and entitled to all the privileges within the said city, and subject to all the penalties for neglect of duty, which the constables, in the several townships and precincts within this state, are vested with, entitled or subject to, in like cases and circumstances.

Corporation may make by-laws, not repugnant to the constitution or laws of the state.

9. *And be it further enacted by the authority aforesaid,* That the said mayor, recorder, aldermen and commonalty of the said city of Perth-Amboy, shall and may make, pass, seal with the common seal of the said city, and publish such and so many by-laws or ordinances, as to them shall seem meet, for the regulation of elections of corporation officers, of markets and vendues; of inspectors of the produce of this or any other of the United States, sold in, or shipped from the said port; of gaugers, measurers, weigh-masters, cullers, wardens; brokers, pilots, cartmen, draymen and porters; and of the merchants, artificers, tradesmen, watermen, seamen, and of all the officers and persons inhabiting or making a temporary residence in the said city; and of the commerce thereof; and for the regulation of weights and measures, relative to the produce of this or any other of the United States, sold in, or shipped from, the said port; to the goods, wares and merchandises necessary to be gauged, measured or weighed; to the inspection of vessels, passengers or goods; pilotage and the fees and fares of all officers to be chosen by the freemen, or appointed by the mayor, recorder, aldermen and commonalty of the said city; and to the fares and rates of ferriage to and from the said city, not otherways regulated; relative to the anchoring and mooring of vessels within the harbor of the said city; relative to the wharves, public and private; to wharfing and wharfage; to the laying out and regulating of streets or highways, within the said city; to nuisances within the said city or haven; to trees, for use or ornament, and the fruit of such trees; to public walks; to trespasses committed in gardens and other enclosures; to buildings, public and private; to sweeping of chimneys; to the preventing and extinguishing of fires, in said city; to the oaths or affirmations of office of all officers not provided for by this act, or other statutes of this state; to the summoning or calling a meeting of the common council, and of extraordinary courts and town-meetings, and the times and places when and where they shall be holden; to qualifications of all, or any of the officers of the said city or port; to the penalties on all officers for refusing or neglecting to qualify into office, when elected or otherwise appointed, and penalties for the breach of by-laws; relative to a city watch, the burial of the dead, public lights and lamps, restraining horses, cattle, sheep, goats, swine and geese, from running at large, or otherwise regulating them; the mode of taxation, and amount of taxes to be levied by the vote of a legal town-meeting, for the use

of the said city; and for the recovery and appropriation of all fines, forfeitures, and amercements, and penalties, not provided for by this act, or other statute of this state. *Provided nevertheless*, That no fine or penalty, laid by any such by-laws, shall, in any case, exceed twelve pounds lawful money of this state. *And provided also*, That no by-law of said city shall be made repugnant to the constitution or laws of this state: and the said mayor, recorder, aldermen and commonalty of the said city of Perth-Amboy, shall and may regulate the assize of bread within the said city, from time to time and at all times hereafter.

1784.

Proviso.

10. *And be it further enacted by the authority aforesaid*, That the mayor, recorder, aldermen and commonalty of the said city, in common council met and assembled, or the major part of them, the mayor or recorder always being one, shall constitute a common council, and in all business done in and by the said common council, a majority of votes of the members present shall decide, and in case of the votes being equal, it shall and may be lawful for the mayor, or, in his absence, for the recorder, to give a second vote, in order to make a majority of votes. *Provided nevertheless*, That no by-law or ordinance of the said common council, without the concurrence of a majority of the votes of the members belonging to the said common council, shall be sealed, or of force; two votes of the mayor, or of the recorder, being president, being admissible, if necessary, to give a decision.

What members, and their number, necessary to constitute a common council.

Proviso.

11. *And be it further enacted by the authority aforesaid*, That the said mayor, recorder and aldermen, of the said city of Perth-Amboy, shall and may, either severally or collectively, have and take cognizance of all fines, amercements, forfeitures and penalties, to be laid by the by-laws or ordinances of the common council of the said city of Perth-Amboy, or any of them.

Who to take cognizance of fines and forfeitures.

12. *And be it further enacted by the authority aforesaid*, That the mayor, recorder and aldermen of the city aforesaid, shall, or any three of them may, license such and so many tavern-keepers, inn-keepers, victuallers, and sellers of liquors by retail, within the said city, under the same limitations, regulations and restrictions, as the courts of quarter-sessions in the several counties in this state, may or can do within their respective counties; and no other license for such purposes, within the said city, granted by any other court in the county, shall be lawful.

The mayor, recorder and aldermen, or any three of them to license taverns.

13. *And be it further enacted by the authority aforesaid*, That the mayor, recorder and aldermen of the said city of Perth-Amboy, for the time being, or any three of them, whereof the mayor or recorder always to be one, shall and may hold, and keep a court of record, which shall be a commercial court, to be called and held as often as occasion requires, for the prosecution and determination of all causes of a commercial nature, wherein the matter in dispute shall have arisen within the said corporation, and subsists between foreigner and foreigner, or foreigner and citizen, or citizen and citizen of the said city, or of any of the United States: all which causes shall be proceeded in and determined, in the most summary way, agreeably to the regulations and practice to be from time to time established and directed by

The mayor, recorder, and aldermen, or any three of them, to constitute a court of record.

1784.

the by-laws of the said corporation, and the settled rules of such court, saving to either party the right of trial by jury; that all judgments entered by said court shall be final to the parties therein, and execution shall issue thereon accordingly, without appeal or removal by writs of certiorari, habeas corpus, or writ of error, unless, previous to the allowance of any such writ, by the said commercial court, the defendant shall enter into recognizance with one or more sufficient securities, freeholders within the said corporation, in double the sum recovered, with condition to prosecute such writ to effect, within two terms, including the term to which said writ may be returnable, and to pay all such sums, with the costs of suit, as shall be finally adjudged against him, within one week after such final adjudication.

14. *And be it further enacted*, That if it should so happen, that the said mayor and recorder should be interested in any cause or causes, before the said court or courts to be tried, then and in that case, it shall and may be lawful to and for the aldermen of the same city, or any, or either of them, to adjourn the trial of the cause or causes to another time, and so from time to time, until a court shall be convened, capable of doing the necessary business therein, or they, the said aldermen, shall proceed to try and determine the said cause or causes, without the said mayor or recorder, or either of them; and also, that in case the same mayor and recorder shall be both absent, at the time or times fixed or appointed for the holding of the same courts, then, that the said aldermen, or any one of them, may, and they are hereby authorized to adjourn the same court or courts.

Mode of proceeding, where mayor and recorder are interested in a cause.

Fees of the court and officers.

15. *And be it hereby further enacted by the authority aforesaid*, That the fees of the officers and courts, in the said city of Perth-Amboy, shall, in all cases, be the same as are and shall be established by law, for the officers and courts in the several counties of this state, as nearly as may be.

Foreigners may hold, under certain conditions, real estate for 21 years, and sell the same.

16. *And whereas* it will greatly tend to promote the good purposes of this act, to grant to foreigners, who may come to make a temporary residence within the city, and who yet may not be able, consistent with the allegiance they owe elsewhere, to take the oaths already prescribed for the security of the government, the right and privilege of purchasing and holding real estates for places of residence; *Be it enacted by the authority aforesaid*, That it shall and may be lawful for all foreigners, who shall or may, at any time hereafter, come to and reside in the said city, and they are hereby authorized to accept, take, purchase, hold and enjoy, any right, title or interest, in any real estate whatsoever, within the bounds thereof, for any term or time not exceeding the term of twenty-one years, and the same real estate again to sell and convey to any purchaser or purchasers, at their pleasure, such foreigners conforming themselves to the laws of the state and the by-laws and ordinances of the said city. *Provided always*, That nothing in this clause contained, shall be construed to admit, within the same city, any person or persons as foreigners, who have been subjects of this, or any of the United States of America, and have withdrawn themselves out of the same, within ten years last past. *And provided always*, That the by-laws of the

Proviso.

said city shall not impose any other or greater taxes, fines, fees, or other impositions, on any such foreigners, than the freemen of the said city shall be subjected to. *And provided also*, That nothing in this act contained shall be construed to extend to alter any part of the act, entitled "An act for the settlement and relief of the poor," passed the eleventh day of May, one thousand seven hundred and seventy-four.

1784.

17. *And be it further enacted by the authority aforesaid*, That the said city and port of Perth-Amboy, as now established, shall be a free city and port, for the reception of foreign and domestic ships and other vessels, and of foreign and domestic goods, wares and products, for twenty-five years, to commence on the first day of January next, provided the said foreign goods, wares and products, shall be brought into the said free port immediately from some foreign port or place, and shall be there landed, and all foreign goods, wares and merchandise, except slaves, imported from any foreign port or place, directly into the said port of Perth-Amboy, and which shall be there landed and put on shore, within the said term of twenty-five years, from the said first day of January next, shall be free from all duties and impositions whatsoever, except such as may be levied by virtue of an act or acts of the United States, in congress assembled, agreeably to the federal constitution, and except also, such as may be levied by the laws of this state, upon such goods, wares and merchandise, as they may conceive injurious to the manufactories of this state; and no foreign ship or other vessel, shall pay any other or greater fees or port charges, at the said port of Perth-Amboy, than shall be paid by ships or other vessels of the same descriptions, belonging to this or any other of the United States.

Perth-Amboy a free port for 25 years, for the reception of vessels and goods.

18. *And it is hereby further enacted by the authority aforesaid*, That all merchants, whether freemen and citizens, or foreigners actually employed in commerce, within the limits and boundaries of the said city of Perth-Amboy, shall be exempted from all taxes and assessments to be levied by this state, for the use of the state, or for the federal government of the United States, as well for their professions as merchants, as for their stock and vessels employed in commerce, for the said term of twenty-five years, from the said first day of January next.

Merchants not to be taxed for their stock during the term of 25 years.

19. This section is executed.

20. *And whereas*, previous to the late revolution, the corporation of the said city of Perth-Amboy, may have been possessed of, or entitled to, real or personal estate, in the said city or elsewhere; *Be it enacted*, That the said property, and a right and title to the same, shall henceforth vest in the corporation of the said city and their successors, as now established by this act, and be and remain to them, for the use of the said city, according to such estate and interest, as the said former corporation had, or might legally claim therein.

Property of the former corporation vested in the present.

21. *And be it enacted by the authority aforesaid*, That this act shall be deemed, adjudged and taken to be a public act, and shall be judicially taken notice of as such, by all judges, justices and other persons whatsoever, without specially pleading the same.

This act declared to be a public act.

1784.

PAT. 70.

AN ACT for incorporating the town and port of Burlington.

Passed the 21st of December, 1784.

Preamble.

WHEREAS sundry freeholders and inhabitants of the town and port of Burlington have, by their petition to the legislature, prayed, that they may, by law, be incorporated and formed into a body politic, with such powers, privileges, and immunities, as will most conduce to the good order and regulation of the citizens thereof, and others visiting the said port, and the advancement of commerce; and as the legislature think it reasonable that the prayer of the said petition be granted, THEREFORE—

The town and port of Burlington made a city and town-corporate.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the town and port of Burlington, as already established by a law of this state, of the length of three miles on the river Delaware, and such part of the same river and islands opposite thereto, appertaining and within the jurisdiction of this state, and extending from the same river, at right angles, one mile into the county of Burlington, including all the lands, country, islands, harbors and waters, within the boundaries aforesaid, shall be, and the same is hereby declared to be, from time to time, and for ever hereafter, a city and town-corporate, and shall henceforth be called, distinguished and known by the name of, "The city of Burlington." And all persons, excepting such as, during the late war, have been guilty of licentious cruelties in plundering or murder, contrary to the usages of civilized nations, who have resided or shall hereafter reside therein, for the space of one year, and who have already, or shall hereafter take and subscribe the oaths, or, if one of the people called quakers, the affirmations prescribed by law, for the security of the government established in this state, under the authority of the people, shall be freemen of the said city, and shall be entitled to have, hold and enjoy, all the following rights, privileges, franchises and immunities, that is to say:

Mayor, recorder, and aldermen, to be appointed by the legislature.

2. For the preservation of peace and good order, and for the better governing of the said city, *It is hereby enacted*, That there shall or may be therein, one mayor, who shall be keeper of the city seal; one recorder, who, besides his said office, in the absence of the mayor, shall have and execute the several offices annexed to the mayoralty, or any or either of them, and three aldermen, all which shall be freeholders in the same city, and all which officers shall be justices of the peace, ex officio, within the said city, and shall be appointed by the council and general assembly of this state, in joint-meeting, and commissioned by the governor, or, in the same manner as the judges and justices of the peace, throughout the state, are appointed and commissioned, shall continue in office for the same length of time, shall be amenable to the council and general assembly, and removable by them, in the same manner as the judges and justices of the

Their duration in office.

To whom amenable, by whom, and for

peace are amenable to, and removable by them; and six common council men, who shall be chosen by the freemen of the said city, at their annual town-meeting; which mayor, recorder, aldermen, and common council men, and their successors, are hereby made, constituted and ordained, and they shall for ever hereafter be one body politic and corporate; and they, the said body politic and corporate, shall have perpetual succession in deed, fact, name and law, and shall be known and distinguished in all deeds, grants, bargains, sales, evidences, writings, or otherwise howsoever, by the name, style and title of, "The mayor, recorder, aldermen and commonalty of the city of Burlington."

1784.

what removable.

Common council men to be chosen by the freemen of the city.

Name of the body politic.

3. And be it further enacted by the authority aforesaid, That they and their successors, by the name of, "The mayor, recorder, aldermen, and commonalty of the city of Burlington," be, and they for ever hereafter shall be, persons able and capable in law, to purchase, take, acquire, receive, enjoy, have, hold and possess, messuages, houses, buildings, lands, tenements, rents, possessions, and all other hereditaments, and real estate whatsoever, within or without the limits and boundaries of the said city, in fee-simple and for ever, or for term of life or lives, or years, or in any other manner whatever; and also, goods and chattels, and all other things, of what nature, kind or quality soever. *Provided always*, That the annual income of such estate shall not exceed the sum of one thousand pounds, proclamation money of New-Jersey; and also, that they and their successors, by the name aforesaid, shall and may, under the seal of the said city or otherwise, give, grant, bargain, demise, assign, sell and convey, or otherwise dispose of, all or any of the messuages, houses, buildings, lands, tenements, possessions, or other real estate, and all other goods, chattels, and things aforesaid, at any time belonging, or to belong to the said city or corporation, in such manner and form, as to them shall seem meet; and also, that they and their successors, by the name aforesaid, be, and they shall for ever hereafter be, persons able and capable in law, to sue and be sued, plead and be impleaded, appear, answer and be answered unto, defend and be defended, in all or any of the courts of judicature, either in law or equity, in this state or elsewhere, in all manner of actions, suits, complaints, pleas, causes, matters and demands whatsoever, in as full and ample a manner and form, as any of the free inhabitants of this state; and also, that they, the said mayor, recorder, aldermen, and commonalty of the said city of Burlington, and their successors, shall and may make, and for ever hereafter use, one common seal, and the same may alter and break, and a new seal may make, have and use, as the common seal of the said city; the said common seal to be used for the sealing of all and singular deeds, grants, conveyances, contracts, bonds, articles of agreement, assignments, powers and authorities, and all and singular other instruments, affairs and businesses, any way touching, concerning, and relating to the said corporation, or to the certifying or assuring of any matter or thing of a private nature, necessary to be certified or assured by the said corporation, or by the mayor thereof, or any of the offices appertaining to the mayoralty.

The corporation may hold lands, the annual income whereof shall not exceed £1000.

May sell and dispose of real and personal estate.

May sue and be sued;

and have a common seal.

1784.

Marshal, coroner and constables, to be chosen annually, by the freemen of the city.

Their powers and duties.

Subordinate officers to be appointed.

The duration of their office.

All the officers of the corporation to take the oath of allegiance, and an oath of office.

Vacancies, how to be supplied.

4. *And be it further enacted by the authority aforesaid, That* there shall be, in the said city, one marshal or sergeant at mace, who shall be a water bailiff, one coroner, and two or more constables, who shall be chosen by the freemen of the said city, at their annual town-meeting, on the first Tuesday in March, which they are hereby authorized to hold, in the same manner with the several townships and precincts in the state; which marshal or sergeant at mace, so chosen, shall be commissioned by the governor, and vested with all the powers and authorities, and entitled to all the privileges within the said city, and subject to all the penalties for neglect of duty, which the sheriffs in the several counties within this state are vested with, entitled or subject to, in like cases and circumstances, and shall give security for the due performance of his office in like manner; and in all cases, when the marshal or sergeant at mace, cannot, with propriety, execute his office, on account of being interested therein, the same shall be executed by the coroner, or by such other fit person, as the corporation court shall appoint; and the constables so chosen, shall be vested with all the powers and authorities, and entitled to all the privileges, within the said city, and subject to all the penalties for neglect of duty, which the constables in the several townships and precincts in this state are vested with, entitled, or subject to, in like cases and circumstances.

5. *And be it further enacted by the authority aforesaid, That* there shall be, in the said city, one treasurer or chamberlain, one clerk of the corporation and of the commercial court, one clerk of the market, and one notary public, and such and so many subordinate officers of the city and port, as the mayor, recorder, aldermen and commonalty, of the said city in common council assembled, shall think necessary, either for the better ordering and governing the said city, or for the convenience, safety and advantage of commerce; all which officers shall be appointed by the mayor, recorder, aldermen and commonalty, in common council assembled, and shall continue one year from the time of their entering upon their office, and until others are appointed to succeed them, and sworn into office, and the notaries public, who shall be commissioned by the governor, and continue in office for five years. *Provided always, That* all the officers, appointed in, or acting under the authority of this present act of incorporation, shall, before they severally take upon them the execution of their respective offices, take and subscribe, before the mayor, recorder, or one or more of the aldermen of the corporation, who are hereby authorized to administer the same, the oaths or affirmations prescribed by law, for the security of the government of this state; and likewise an oath or affirmation, that they will faithfully and impartially discharge and execute the trusts reposed in them, according to the best of their judgments and abilities, so long as they shall hold or continue in the same.

6. *And be it further enacted by the authority aforesaid, That* in case of the death, removal, refusal, or other disability, of any of the above officers, to serve in and execute their said offices,

other fit persons shall be appointed to supply their places in the same manner in which they were appointed.

1784.

7. *And be it further enacted by the authority aforesaid,* That the freemen of the said city, who may assemble and meet together at the time and place appointed for that purpose, on the day or days of the annual town-meeting, or of town-meetings to be especially called by the mayor, recorder, and aldermen of the said city, shall constitute and be a legal town-meeting; and the vote of the said freemen, so met, or a major part of them, shall be deemed, esteemed, and taken to be the vote of the city.

What town-meetings deemed legal.

8. *And be it further enacted by the authority aforesaid,* That the said mayor, recorder, aldermen, and commonalty of the said city of Burlington, in common council assembled, shall and may make, pass, seal with the common seal of the said city, and publish such and so many by-laws or ordinances, as to them shall seem meet for the regulation of elections of their officers; for the regulation of markets, vendues, and taverns; of inspectors of the produce of this, or any of the United States, sold in, or shipped from the said port; of gaugers, measurers, weight masters, cullers, wardens, brokers, pilots, cartmen, draymen, and porters; and of the merchants, artificers, tradesmen, watermen, seamen; and of all the officers and persons inhabiting, or making a temporary residence in the said city; and of the commerce of the said city; relative to weights and measures; relative to the produce of this, or any other of the United States, sold in or shipped from the said port; to the goods, wares and merchandise, necessary to be gauged, measured or weighed; to the inspection of vessels, passengers, or goods; to pilotage, and the fees and fares of all officers, to be chosen by the freemen, or appointed by the mayor, recorder, aldermen, and commonalty of the said city; and to the fares and rates of ferriage to and from the said city; relative to the anchoring and mooring of vessels, within the harbors of the said city; relative to the public wharves, to wharfing and wharfage, to the laying out and regulating of streets or highways within the said city; to nuisances within the said city or haven; to trees for use or ornament, public or private, and the fruit of such trees; to public walks; to trespasses committed in gardens, and other enclosures; to buildings, public and private; to sweeping of chimneys; to the preventing and extinguishing of fires in said city; to the summoning or calling a meeting of the common council, and of extraordinary courts and town-meetings, and of the times and places when and where they shall be holden; to qualifications of all the officers of the said city and port; to the penalties on all officers for refusing or neglecting to qualify into office, when elected, or otherwise appointed; the fees of all subordinate officers, and penalties for the breach of by-laws; relative to the city watch, public lights and lamps, restraining horses, cattle, sheep, goats, swine and geese, from running at large, or otherwise regulating them; the mode of taxation, and of collecting such taxes as shall be levied or ordered to be raised by any legal town-meeting, for the use of the said city; and for the levying, recovery, and appropriations of all fines, forfeitures,

Corporation may make by-laws, not repugnant to the constitution or laws of the state.

1784.

Proviso.

By-laws, how
to be publish-
ed, and when
to be in force.

amercements, and penalties, not provided for by this act, or the laws of the state. *Provided always*, That no fine or penalty, laid by any such by-law, shall, in any case, exceed twelve pounds lawful money of this state, and the said by-laws, at their discretion, they the said mayor, recorder, aldermen, and commonalty, in common council assembled, shall and may amend, alter or repeal, and others in their stead, make and establish; all which by-laws, so as aforesaid made, passed and sealed, shall be deposited in the office of the recorder of the said city, and the contents thereof, shall be made known by advertisements, in two of the most public places in the said city; five days after which said publication, they shall be in force, and so remain until repealed, altered or amended, by the mayor, recorder, aldermen, and commonalty of the said city, or by the legislature of the state, or by a judgment of the supreme court of judicature in this state, be declared to be repugnant to the constitution or laws of the state, in which case such by-laws or ordinances of the said city, so declared repugnant to the laws or constitution of the state, shall be considered as null and void; and the said mayor, recorder, aldermen, and commonalty of the said city shall and may regulate the assize of bread from time to time, and at all times hereafter.

What mem-
bers, and their
number, ne-
cessary to con-
stitute a com-
mon council.

But no by-law
to pass without
seven votes.

Who to take
cognizance
of fines and
forfeitures.

The corpora-
tion to license
taverns.

The mayor, re-
corder and al-
dermen, or

9. *And be it further enacted by the authority aforesaid*, That the mayor, recorder, aldermen, and commonalty, met and assembled, or the major part of them, the mayor or recorder being always one, shall constitute a common council; and in all business to be done in and by the said common council, a majority of the votes of the members present shall decide, and in case of the votes being equal, it shall and may be lawful for the mayor, or in his absence, for the recorder, to give a second vote, in order to make a majority of votes. *Provided always*, That no by-laws or ordinance of the said common council shall pass, without the concurrence of at least seven votes, of which the second vote, to be given by the mayor or recorder, may, when necessarily given, be one.

10. *And be it further enacted by the authority aforesaid*, That the mayor, recorder, and aldermen of the said city of Burlington, shall and may, either severally or collectively, have, and take cognizance of all fines, amercements, forfeitures, and penalties, to be laid by the by-laws or ordinances of the common council of the said city, or any of them.

11. *And be it further enacted by the authority aforesaid*, That the mayor, recorder, aldermen, and commonalty, in common council assembled, shall and may license such and so many tavern-keepers, inn-keepers, victuallers and retailers of spirituous liquors, as may be necessary within the said city, under the same limitations, regulations and restrictions, as the courts of quarter-sessions in the several counties of this state may, or can do within their respective counties; and no other license for such purpose within the said city, granted by any other court in the county, shall be lawful.

12. *And be it further enacted by the authority aforesaid*, That the mayor, recorder, and aldermen of the said city of Burling-

ton, for the time being, or any three of them, whereof the mayor or recorder always to be one, shall and may hold and keep a court of record, which shall be a commercial court, and shall be holden once in every month, or oftener if necessary, for the prosecution and determination of all causes of what nature and kind soever, except such as relate to the title of lands, wherein the matter in dispute shall have arisen, and subsist between foreigners and foreigners, or between foreigners and citizens of the said city; all which causes shall be proceeded in and determined in the most summary way, agreeably to the regulations and practice to be from time to time established and directed by the by-laws of the said corporation, and the settled rules of such court, and shall give judgment, and issue execution accordingly. *Provided always,* That nothing herein contained, shall be construed to deprive any person of being tried by a jury of the city, if he shall request the same; and all judgments, entered by the said court, shall be final to the parties therein, without appeal or removal by writs of certiorari, habeas corpus, or writ of error, unless, previous to the allowance of any such writ by the said commercial court, the defendant shall enter into recognizance with one or more sufficient securities, freeholders within said corporation, in double the sum recovered, with condition to prosecute such writ to effect, within two terms, including the term, to which said writ may be returnable, and to pay all such sums, as shall be finally adjudged against him, together with costs of suit, within one week after such final adjudication.

1784.

any three of them, to constitute a court of record, to be held monthly.

Proviso.

13. *And be it further enacted by the authority aforesaid,* That the fees of the officers and courts, in the said city of Burlington, shall in all cases be the same, as are and shall be by law established for the officers and courts in the several counties of this state, as near as may be.

Fees of the court and officers.

14. *And whereas* it is necessary, that all courts of record should have a respectable deference paid to them, to give efficacy to their proceedings and decisions, *Be it therefore enacted by the authority aforesaid,* That the marshal, or sergeant at mace, and the constables, shall attend at all the city courts, with their staves, in term time; and if it shall so happen, that at the time or times of holding the said courts, the mayor or recorder shall be absent or disqualified, by being interested in the event of the suit, that then it shall and may be lawful for the aldermen, to call to their aid, one of the judges of the court of common pleas of the county of Burlington, who shall, for the time being, be vested with all the powers and authorities, which the mayor or recorder would be, if present, and not disqualified.

Duty of marshal and constables to attend the courts

If the mayor or recorder be absent or disqualified, how the court shall be formed.

15. *And be it further enacted by the authority aforesaid,* That the first election of corporation officers, in the said city of Burlington, shall be held at the court-house, on the first Tuesday in February next; the said corporation officers, when chosen and sworn into their respective offices; according to the direction of this act, to continue and remain therein until the second Tuesday in March following; that the mayor, recorder, and aldermen, to be appointed or elected, shall take the necessary oaths or affirmations

First election of officers, when to be held.

1784.

Times of holding the court.

Property of the former corporation vested in the present.

This act not to affect a certain act.

This act declared to be a public act.

to government, and of office, before the clerk of the peace, or any one of the judges of the pleas, in the county of Burlington; that there shall be a meeting of the mayor, recorder, aldermen, and commonalty of the said city of Burlington, on the Tuesday next after the election of the corporation, as aforesaid, in order to appoint such and so many officers as may be immediately necessary for the organization of the police, and may do such other things as shall be necessary in the premises; and that the first commercial court, in the said city, shall be held on the fourth Monday in April next, and on the fourth Monday in every month thereafter, as often as may be judged necessary.

16. *And whereas*, previous to the late revolution, the corporation of the said city of Burlington may have been entitled to real and personal estate, *Be it enacted*, That the said real and personal estate, and the right, title, interest and property of, in, and to the same, shall according to such estate and interest as the said former corporation had, or of right ought to have therein, be vested in the corporation of the said city of Burlington, and their successors, as now established by this act, and shall be and remain to the same for the use of the said city.

17. *And be it further enacted by the authority aforesaid*, That nothing in this act contained, shall be construed to repeal or alter any part of the act, entitled "An act for the settlement and relief of the poor," passed the eleventh of March, one thousand seven hundred and seventy-four.

18. *And be it further enacted*, That this act shall be deemed and taken to be a public act, and as such to be taken notice of by all courts of justice within this state.

PAT. 75.

AN ACT for the better securing of the surplus of personal estates after payment of debts, of persons, who die intestate, leaving no relations entitled to the administration thereof.

Passed the 22d of December, 1784.

Preamble.

WHEREAS no sufficient provision hath hitherto been made for securing the personal estates of foreigners, and others, who die intestate, leaving no relations entitled to the administration of such estates; therefore—

Persons dying intestate, leaving no relations, ordinary to grant letters of administration to any proper applicant.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same* That whenever any person shall hereafter die intestate within this state, and shall leave no relations, justly entitled to the administration of his or her personal estate, or, if so entitled, shall not claim the same within fifty days next after the death of such person, so dying intestate, it shall and may be lawful for the ordinary, or his surrogates, to grant letters of administration of such decedent's estate, to any fit person or persons applying therefor, taking his or their bond for the faithful execution of the trust reposed in him or them; which person or persons, s

applying, and taking out letters of administration, shall, at the expiration of one year after the death of such intestate, put the surplus of said estate, after payment of debts and necessary expenses, out to interest, and pay the interest thereof annually, to the overseers of the poor of the township, in which such intestate shall so die, to, and for the use of the poor of the said township.

1786.

The interest of the money to be paid annually to the overseers of the poor.

2. And be it further enacted by the authority aforesaid, That the person or persons, so administering on the estate of any person dying intestate as aforesaid, shall, whenever applied to for that purpose, pay the principal of such personal estate, if thereto required, within seven years next after the decease of such intestate, to his or her legal representative or representatives, applying for the same by assigning to him, her, or them, the bond or other security therefor, or by otherwise satisfying them for the same.

The principal to be paid to the intestate's representative if applied for in seven years.

3. And be it further enacted by the authority aforesaid, That if no person or persons, legally entitled to the personal estate of such intestate, shall, within the said seven years next after his or her decease, make application to such administrator or administrators for the said principal, he, she, or they, so entitled, shall, for ever thereafter, be debarred from all right, title or claim, to such decedent's personal estate; and the said administrator or administrators shall, immediately after the expiration of the said seven years, pay the whole of the said principal, with the interest that may then be due thereon, to the overseers of the poor of the township in which such intestate died, to and for the use of the said township. *Provided always*, That the right of foreigners, by treaty or otherwise, shall not be affected by any thing in this act contained.

If no representative shall so apply, money to be paid to the overseers of the poor.

Proviso.

AN ACT to repeal an act, entitled "An act for the better regulation of juries."

PAT. 75.

Passed the 20th of February, 1786.

AN ACT to ratify and confirm an agreement made between the commissioners appointed by the legislature of the state of Pennsylvania, and the commissioners appointed by the legislature of the state of New-Jersey, for the purpose of agreeing upon, and accurately describing which of the islands, islets and insulated dry land, mentioned in the agreement between the two states, bearing date on the twenty-sixth day of April, seventeen hundred and eighty three, belong to each of the said states, according to the purport of that agreement.

PAT. 76.

Passed the 16th of March, 1786.

WHEREAS commissioners duly appointed on the part of the state of Pennsylvania, and a commissioner duly appointed on the part of the state of New-Jersey, for the purpose of dividing the islands in the river Delaware, between the falls of Trenton, and the station point, or north-west corner of the state of New-Jersey, have executed two articles of agreement, one for each state, which is contained in the following words—

Preamble.

1786.

Recital of an agreement between Pennsylvania and New-Jersey, respecting the division of the islands in the Delaware, from the falls at Trenton, northerly, to the station point.

An agreement made and concluded upon, between George Wall, John Okely, and Jonas Hartzell, commissioners appointed by the supreme executive council of the state of Pennsylvania, for dividing the islands and insulated dry land in the river Delaware, with the state of New-Jersey, from the falls at Trenton, to the station point, or north-west corner of the said state, and Moore Furman, commissioner appointed by the said state of New-Jersey, for the like purpose.

First. The parties aforesaid, in pursuance of the authority to them severally given, and in behalf of the respective states aforesaid, do agree, that from the said falls of Trenton, to the station point, or north-west corner of the state of New-Jersey, aforesaid, the following islands, opposite to the county of Bucks, and the townships hereafter named, that is to say, opposite to the Falls township, Birds' island; opposite to Lower Makefield township, Slack's three islands, Duer's island, and Harvey's lower island; opposite to Upper Makefield township, Harvey's upper island and Lowne's island; opposite to Solebury township, Smith's island and bar, and Paxton's island and bar; opposite to Tinnicum township, Pratt's two islands, Wall's island, Resolution island, Marshall's island, Wall's two islands, Fishing island, and Pennington's island; opposite to Nockamixon township, Loughley's island; and opposite the county of Northampton, and the townships hereafter named, that is to say, William's township, Pohatcung island, Shoemaker's island, and Loor's island; opposite to the Forks township, Easton island; opposite to Mount Bethel, Mason's island and bar, Mason's island, Foul Rift island, M'Elhany's island, and Attin's two islands; opposite to Lower Smithfield, Haudy's island and bar, Goodwin's two islands, Shawanagh, or I. and B. Van Campen's island, N. Depew's island and two bars, Chambers' island and Van Oken's island; opposite to Delaware township, Swartwood's island, and Isaac Van Campen's island; opposite Upper Smithfield township, Punkey's island, and five bars; shall be annexed to the state of Pennsylvania, and considered as parts and parcels thereof.

And that the following islands, opposite to the county of Hunterdon, in the state of New-Jersey, and the townships hereafter named, that is to say, opposite to the township of Trenton, Yard's island, Mott's two islands, and Gould's two islands; opposite to the township of Hopewell, Stout's island; opposite to the township of Amwell, Smith's Mill island, Coryell's island, Holcombe's two islands, Eagle island, and Bull's island; opposite to the township of Kingwood, Rush island, Ridge's island, Shyhawk's three islands, Pinkerton's island, and Man of war island; opposite to the township of Alexandria, Stull's island, Lowrey's island, and Loughley's island and bar; and opposite to the county of Sussex, and the townships hereafter named that is to say, opposite to the township of Greenwich, Rope's island, Champman's island, Stout's island and bar, and Bar island; opposite to the township of Oxford, Capush island, Foulrift island, and Mack's island; opposite to the township of Knowlton, Mack's island and three bars, and Gap island; opposite to the township

1787.

of Walpack, Hoops' two islands, Chambers' island, A. Van Campen's fishing island, Opaughanaugh island, and Necesses island; opposite to the township of Sandyston, Nominaack island, and Westfall's island; opposite to the township of Montague, Mink island, Quick's two islands and bar, Shabbacong great island and bar, and Westfall's two islands, shall be annexed to the state of New-Jersey, and hereafter be considered as parts and parcels thereof, agreeably to a map or chart of the said river, and description of the several islands and insulated dry land therein, made under our direction, by Mr. Reading Howell, surveyor, and herewith exhibited to each state.

Secondly. That all other islands, which may hereafter be formed within said river, between the falls of Trenton and the station point, or north-west corner of the state of New-Jersey aforesaid, shall hereafter be deemed and considered as parts and parcels of the state, to which such islands may be nearest. *In witness whereof*, we, the commissioners of the states aforesaid, have set our hands and seals to two instruments of writing, one for each state, dated this second day of December, Anno Domini, one thousand seven hundred and eighty-five.

GEORGE WALL, (L. S.) JONAS HARTZELL, (L. S.)
JOHN OKLEY, (L. S.) MOORE FURMAN, (L. S.)

THEFORE—

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the aforesaid agreement, and every article, clause, matter and thing therein contained, shall be, and the same is hereby fully and amply ratified and confirmed, and shall be, and ever hereafter remain in force, agreeably to the true tenor and extent thereof.

The agreement confirmed.

AN ACT to repeal an act, entitled "An act to direct the mode and proceedings on writs of fieri facias, and for transferring of lands and chattels for the payment of debts.

PAT. 80.

Passed the 22d of November, 1786.

AN ACT to regulate waggons and other wheel-carriages, within the state of New-Jersey.

Passed the 30th of May, 1787.

WHEREAS sundry inhabitants of this state have, by their petition, set forth, that they find great inconvenience, and labor under considerable difficulties, by the difference in the track or running of waggons and other wheel-carriages, in the counties of this state; for remedy whereof—

PAT. 80.

I. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all waggons and other wheel-carriages of any

Track of waggons and wheel-carriages ascertained.

1787.

Penalty for using carriages of a different track what, and how to be recovered and applied.

Provide.

Former act repealed.

kind or description whatever, drawn by one or more horse or horses, oxen or other cattle, made and constructed, and all axle-trees, made or repaired, from and after the first day of October next, travelling or passing on or through the roads or highways within this state, belonging to persons resident therein, shall run or track on the ground, from centre to centre of the felloes, not less than four feet and ten inches, under the penalty of twenty shillings, to be recovered from the owner or owners, proprietor or proprietors, of such waggon or other wheel-carriage, for each and every offence, before any one justice of the peace of this state, where the fact shall be committed, upon the oath or affirmation of one or more witness or witnesses; which said fine, when recovered, shall be paid, one moiety thereof to the overseers of the highways for the township, division or precinct where the fact was committed, to be applied towards repairing the highways in the same, and the other moiety to be paid to the person or persons prosecuting the same to effect: and the said overseers are hereby made accountable for all moneys they may receive in virtue of this act, in the same manner and form, as they are for other fines and forfeitures: *Provided always*, That the above fine shall not be set or levied more than once upon one journey; and that every information, relative to any breach of this act, be made within twenty days after the offence is committed.

2. *And be it enacted by the authority aforesaid*, That the act, entitled "An act to regulate carriages of burden within this colony," passed June the twenty-fourth, seventeen hundred and sixty-seven, shall be, and the same is hereby repealed.

PAT. 81.

AN ACT for the limitation of suits respecting titles to land.

Passed the 5th of June, 1787.

Preamble.

WHEREAS the laws, now in force, for the limitation of suits respecting real estates, are found insufficient to answer the good purposes of quieting claims, and securing titles; therefore—

Sixty years possession shall vest a good title, and be a bar to all claims.

In what cases thirty years possession shall be a bar to prior locations, rights and conveyances.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That sixty years actual possession of any lands, tenements, or other real estate, uninterruptedly continued by occupancy, descent, conveyance or otherwise, in whatever way or manner such possession might have commenced, or have been continued, shall vest a full and complete right and title in every actual possessor or occupier of such lands, tenements, or other real estate, and shall be a good and sufficient bar to all claims, that may be made, or actions commenced by any person or persons whatever, for the recovery of any such lands, tenements, or other real estate.

2. *And be it further enacted*, That thirty years actual possession of any lands, tenements, or other real estate, uninterruptedly continued as aforesaid, wherever such possession commenced, or is founded upon a proprietary right duly laid thereon, and re-

recorded in the surveyor-general's office of the division, in which such location was made, or in the secretary's office, agreeably to law, or wherever such possession was obtained by a fair bona fide purchase of such lands, tenements, or other real estate, of any person or persons whatever in possession, and supposed to have a legal right and title thereto, or of the agent or agents of such person or persons, shall be a good and sufficient bar to all prior locations, rights, titles, conveyances or claims whatever, not followed by actual possession as aforesaid, and shall vest an absolute right and title in the actual possessor and occupier of all such lands, tenements, or other real estate. *Provided always*, That if any person or persons, having a right or title to lands, tenements, or other real estate, shall, at the time of the said right or title first descended or accrued, be within the age of twenty-one years, feme covert, non compos, imprisoned, or without the United States of America, then such person or persons, and his and their heir and heirs, may, notwithstanding the aforesaid times are expired, be entitled to his or their action for the same, so as such person or persons, or his or their heirs, commence or sue forth his or their action within five years after his or their full age, discovery, coming of sound mind, enlargement out of prison, or coming within any of the United States, and at no time after. *And provided also*, That any citizen or citizens of this or any other of the United States, and his or their heirs, having right or title to any lands, tenements, or other real estate within this state, may, notwithstanding the aforesaid times are expired, commence his or their action for such lands, tenements, or other real estate, at any time within five years next after the passing this act, and not afterwards.

1787.

Proviso in favor of infants, feme covert, persons insane, imprisoned, or out of the United States.

Proviso, that persons having title, may sue within five years after this act.

3. *And be it further enacted*, That any survey, made of any lands within either the eastern or western division of the proprietors of the state of New-Jersey, and inspected and approved of by the general proprietors, or council of proprietors of such division, and by their order or direction entered upon record in the secretary's office of this state, or in the surveyor general's office in such division, shall, from and after such record is made, preclude, and for ever bar such proprietors and their successors, from any demand thereon, any plea of deficiency of right or otherwise notwithstanding.

Surveys inspected, approved and recorded, shall be a bar against the proprietors.

4. *And be it further enacted*, That if any person or persons, for the purpose of establishing the boundaries of lands between them, shall, by certificate under their hands and seals, executed in the presence of two or more subscribing witnesses, certify unto the clerk of the county or counties, wherein such line or partition shall lay, any lines, corners, and boundaries, as shall by them be allowed and acknowledged to be the true bounds betwixt their lands, and the said certificate filed in said clerk's office, and recorded by said clerk in a book to be by him provided for that purpose, shall be as fully conclusive and binding to the parties so certifying, and their heirs and successors, as could have been done by deeds of quit-claim, or in any other manner whatsoever.

Boundaries of lands between persons, how to be ascertained.

1788.

Repealing
clause.

5. *And be it further enacted*, That so much of the act, entitled
 "An act for the limitation of actions, and for avoiding of suits,"
 and such and so many of the statutes in England, now in force in
 this state, as are affected by, and repugnant to this act, be, and
 the same are hereby repealed, made void and of no effect.

See a supplemental act of the 28th of November, 1789.
 See act for the limitation of actions, 7th February, 1790.

PAT. 82.

AN ACT to repeal such acts, or parts of acts, as may be in force in
 this state, that are repugnant to the treaty of peace between the
 United States and his Britannic majesty.

Passed the 6th of June, 1787.

PAT. 83.

AN ACT to authorize the people of this state to meet in conven-
 tion, deliberate upon, agree to, and ratify the constitution of the
 United States, proposed by the late general convention.

Passed the 1st of November, 1787.

PAT. 83.

AN ACT to repeal two certain acts therein mentioned for the re-
 lief of insolvent debtors.

Passed the 3d of November, 1787.

PAT. 83.

AN ACT to repeal two certain acts, giving to the secretary of this
 state an annual salary, and also so much of a certain act therein
 mentioned, as respects fees to be taken by the said secretary
 upon commissions, granted to justices, coroners, and militia offi-
 cers.

Passed the 11th of November, 1788.

PAT. 84.

AN ACT to enable the owners of the tide swamps and marshes to
 improve the same, and the owners of meadows already banked in,
 and held by different persons, to keep the same in good repair.

Passed the 29th of November, 1788.

On application
 of the owners
 of tide-swamps
 and marshes,
 the court of
 common pleas
 to appoint
 commission-
 ers; who may
 lay out the
 bank, dam,
 and other
 work, and

1. BE IT ENACTED by the Council and General Assembly
 of this state, and it is hereby enacted by the authority of the same,
 That if the owners of two thirds of any body or tract of marsh
 or swamp, exposed to the overflow of the tide, and capable of
 being laid dry, and put in a proper state for improvement by one
 general bank or dam, are desirous to improve the same, and the
 whole cannot agree, such owners, desirous of improving as
 aforesaid, after giving three weeks previous notice to those who
 refuse or neglect to join in such improvement, by notice left at
 each of their places of abode, or by advertising their intentions in

three of the most public places in the neighborhood, at least three weeks previous thereto, may apply to the court of common pleas of the county, in which such marsh doth lie; or in case a county line shall run through the marsh or swamp proposed to be improved as aforesaid, to the court of common pleas nearest thereto; on which application the members of such court, who are disinterested, and unconnected with the parties, shall, and they are hereby required to, appoint, by a certificate under their hands and seals, three or more judicious and disinterested men, well acquainted with banking and improving tide-meadows, as commissioners; which commissioners, after giving notice of the time and place of meeting, shall view the premises, and hear the parties, and, if they then think proper, lay out the bank, dam, sluices, floodgates or other works necessary for securing the marsh or swamp from the overflow of the tide, in such place or places as may appear most safe and beneficial to the whole of the owners of the marsh or swamp, intended to be secured from the overflow of the tide, and make an actual survey thereof, describing the place of beginning, courses and distance, and places where the sluice or sluices, or floodgates, shall be laid, and where the bank or dam shall join the fast land; and also fix a name for the company, and appoint the time and place of their first meeting, and deliver a certificate of their proceedings, signed by a majority of them, to the clerk of the court, from which they received their appointment, which clerk shall forthwith record the said certificate in the road-book kept in his office. *Provided always*, that no navigable water shall be stopped by virtue of this act, the use of which navigation may, in the opinion of the majority of the men appointed as aforesaid, be of more than half the value to the inhabitants of the neighborhood, that the improvement of the meadow would be to the owners thereof. *And provided also*, That nothing in this act shall be construed to authorize the stopping out any creek or river, capable of navigation for shallops or flats, that can carry eight cords of wood.

1788.

make a survey thereof, and give a name to the company.

Their proceedings to be certified and recorded.

But certain navigable streams are not to be stopped.

2. *And be it further enacted*, That the expense of erecting, making, and maintaining the banks, dams, sluices, floodgates, and other works, laid out as aforesaid, and also all the general watercourses, necessary for draining the marsh, swamp, or meadow ground, secured from the overflow of the tide, by the aforesaid banks or works, as well as the expense of laying out the banks, works and water courses, and every other necessary expense for the benefit of the company, shall be defrayed by a tax, laid on the meadow ground secured from the overflow of the tide as aforesaid, in manner hereafter directed.

Expenses of banking to be defrayed by a tax on the meadows.

3. *And be it further enacted*, That after the banks, dams, and works are laid out, and a certificate thereof recorded as aforesaid, some one or more of the company shall give at least one week's notice of the time and place of the aforesaid first meeting, by notice left at the house of each owner, or by advertising the same in three of the most public places in the neighborhood, at least one week previous to the said time of meeting.

Banks, when laid out, owners to meet,

1788.

and choose managers, treasurer and clerk, and also three appraisers of the swamp or marsh.

Marsh to be measured, valued, and then assessed to defray the expenses.

Treasurer, how to recover sums assessed.

If assessment be insufficient, another may be made.

4. *And be it enacted*, That it shall and may be lawful for the owners and possessors of land, lying within the bank or dam laid out as aforesaid, their legal agents or representatives, to meet at the place appointed, and, between the hours of one and five in the same afternoon, to choose, by ballot or otherwise, and by plurality of votes of those met, such person or persons as they may think proper for managers, and a treasurer, and clerk for the ensuing year, or until the next annual meeting thereafter, and three or more indifferent men, to value all the marsh, swamp, or meadow ground secured by the bank, from the overflow of the tide.

5. *And be it enacted*, That the managers, when appointed as aforesaid, or a majority of them, shall, as soon as may be, cause all the lots and parcels of the marsh, meadow ground or swamp, belonging to each owner, usually overflowed by the tide, and lying within the bounds of the proposed bank or dam and water-works, to be carefully and strictly measured, and a draught or plot to be made, shewing the quantity held by each owner; and cause a valuation to be made, by the men appointed as aforesaid, of the meadow ground of each owner, separately; and shall, thereupon, make an estimate of the sum or sums of money which will be necessary to defray the expenses of the different services required by this law, and also of making and erecting the bank, dam and other works, necessary to keep the tide from overflowing the meadows within them, until the said meadows shall be laid dry, and put in a proper state for improvement; and shall assess the same, ratably, on the said meadow, agreeably to the valuation and quantity each owner may have within the bank or dam; and shall state the said assessment in a regular duplicate, containing the names of the owners or possessors, the number of acres and parts of acres held by each, the sums assessed on them, severally, and the time or times of payment; which duplicate shall be delivered, by them to the treasurer chosen as aforesaid.

6. *And be it enacted*, That the treasurer, on receipt of the said duplicate, shall, in person, or by notice in writing, left at the usual place of abode of each owner or possessor, demand of and from each owner and possessor, twenty days before the time of payment, the sum assessed as aforesaid; and if any of the said owners or possessors shall neglect or refuse to pay the sum assessed as aforesaid, for the space of twenty days after the time fixed for payment thereof, it shall and may be lawful to and for the said treasurer to seize and rent out, by public vendue, to the highest bidder, for so long time, and no longer, as will be requisite, so much of the meadow ground within said bank belonging to, or in possession of such delinquent owner or possessor, as may suffice to discharge such assessment, and all expenses attending the recovery thereof, having first advertised the same for the space of three weeks, in three of the most public places in the neighborhood, where the said meadow lies, or may be sold.

7. *And be it enacted*, That if said estimate, so made and collected as aforesaid, should not produce a sufficient sum of money to fulfil the purposes above mentioned, the said managers shall

raake, in like manner, an estimate of such sum as may be further necessary, which shall be collected in like manner, as is herein before directed.

1788.

8. *And be it enacted*, That the said managers shall, from time to time, at least once in every three months, inspect and examine the banks, sluices and water works whatsoever, erected or made for the benefit of the aforesaid company; and shall cause, or procure to be made or done, all such repairs and amendments, as to them, or a majority of them shall seem necessary; and for defraying the expense thereof, shall assess, in manner aforesaid, such sum or sums of money as may be requisite, which shall be collected in manner aforesaid.

Managers to examine the banks and works, quarterly, and to keep them in repair.

9. *And be it enacted*, That, after the meeting of the said owners and possessors, at the time and place appointed as aforesaid, it shall and may be lawful for the said owners and possessors, to meet and assemble statedly, on the first Monday in April, yearly and every year, at one o'clock in the afternoon of that day, at such place as a majority of those met at the first meeting, or at the last preceding annual meeting, may have from time to time appointed; and there, between the hours of one and five in the afternoon, by ballot or otherwise, and plurality of votes of those met, appoint managers, a treasurer, and clerk as aforesaid, to continue for one year, and from thence until others are appointed to supply their places, and the manager or managers, treasurer and clerk, shall have the like powers as those herein before mentioned. *Provided always*, That nothing in this act contained shall be construed to prevent a manager from being treasurer, clerk, or both.

At what time and place the company shall hold their annual meeting to elect officers.

Proviso.

10. *And be it enacted*, That it shall be the duty of the clerk, chosen as aforesaid, from time to time, to enter in a book, to be provided for that purpose, all votes, proceedings, orders and assessments, made by the said owners and possessors, or the managers, and all transactions whatsoever, which the said owners and possessors or managers shall direct.

Clerk's duty.

11. *And be it enacted*, That it shall and may be lawful for the executors or administrators of any person deceased, to whose estate a part of meadow ground lying in company did belong, and to and for the guardians of minors, and to and for the agents of single women, or other persons, who cannot attend the meeting of the owners and possessors, such agents being appointed in writing, to vote at said meetings.

Executors, administrators, guardians and agents, authorized to vote.

12. *And be it enacted*, That if any of the managers, or treasurer, or clerk, should, at any time within the year for which they are elected, by death or other disability, become incapable of executing the duties required by this act, it shall and may be lawful for the managers, or a majority of them, or the survivors, or a majority of them, or the survivor, or if none remain, any two of the owners or possessors, to call a meeting by notice in writing left at the place of abode of each owner or possessor, or by advertising the same in three of the most public places in the neighborhood, at least two weeks previous thereto, for the purpose of supplying the vacancy or vacancies; and the persons ap-

In case of the death or disability of any of the officers, others to be elected.

1788.

Wages of the officers, to be fixed by the company.

pointed in consequence shall have the like powers for the remainder of the year, as those had in whose places they may be appointed.

Mud and earth, where to be dug.

Outer works may be erected.

What line ditches and drains declared to be lawful fences, and how to be maintained.

Mode of proceeding against the owners of meadows, who neglect or refuse to maintain their part of the banks and other works.

13. *And be it enacted*, That the owners and possessors of meadow ground, lying in company as aforesaid, or their representatives, at the annual meeting, from time to time, shall fix and determine, by the vote of a majority of those met, the wages or salaries to be paid to the managers, treasurer and clerk, from year to year.

14. *And be it enacted*, That it shall and may be lawful for the manager or managers, or a majority of them, to dig or cause to be dug, mud, sand or other earth, for the erecting and repairing the banks and works, from time to time, in such places as shall be most convenient to the banks and works under his or their direction, and least detrimental to the owners of the soil; and whenever it shall, in the opinion of the manager or managers, or a majority of them, appear necessary to lay or erect any works without the banks, to prevent the wash from damaging the banks or works, the said manager or managers are hereby empowered to cause such works to be made or done, and to defray the expense thereof, as herein before directed for defraying the expense of other works and repairs.

15. *And be it enacted*, That all line ditches or drains, of nine feet wide, at the surface of the meadow, four feet and a half at bottom, and three feet deep, and lying on a mud or miry bottom, shall be deemed and reputed, and the same are hereby declared to be lawful fences, and shall be divided in the same manner, and made and maintained in the same proportion, as line fences are by law directed to be divided, made and maintained; and the mud, earth or rubbish, shall be cast as equally as may be on each side, except the owners, by agreement, determine otherwise.

16. *And whereas* many owners of meadows, already banked from the tide, suffer great loss and damage by the conduct of others, who own meadow lying within the same bank, and neglect or refuse to keep their part or parts of the bank, works and water courses in good repair; therefore, *Be it enacted*, That in all cases where several persons own meadow ground within one and the same bank, dam or other enclosure, and liable to be overflowed or damaged by a breach in any part of such bank, dam or other works; and any of the owners or occupiers of any part thereof shall neglect or refuse to keep his, her or their part or parts of said banks or works in repair, to the damage or danger of the other owner or owners, any owner or owners so damaged, or in danger of being damaged by such neglect, may, upon six days' notice being given to the other owners or occupiers, apply to the judges of the inferior court of common pleas of the county, where such meadow may be, who shall appoint, by a certificate, under the hands of a majority of them, three or more men, as before described, who, after giving ten days' previous notice to all concerned, of the time and place of meeting, shall hear the parties, view the premises, and, after taking into consideration every circumstance,

1788.

matter and thing, which may tend to enable them to do justice between the parties, divide the bank and other works necessary for the safety and improvement of the meadows; and give and allot to each owner or occupier, his or her respective share or part to keep up and maintain; or direct, that the whole of such bank and works shall be supported by a tax, laid from time to time, agreeably to the quantity and quality of the meadow enclosed from the tide by said bank; and likewise, in either case, lay out all the necessary general water courses, in such places as may be most convenient and beneficial for the purposes of draining the meadows generally, and least detrimental to the owners of the soil; and order the maintenance of the water courses in the same manner as the banks and works, either by giving each owner his or her share or part of the bank and works to make, keep up and maintain; or order that the whole of the bank, dam and other works, and general water courses, shall be made and maintained by a general tax; and give a certificate of their proceedings, with the courses and distances, if required by any owner or owners, signed by a majority of the commissioners appointed as aforesaid.

17. *And be it further enacted*, That if any owner or owners shall think him, her, or themselves aggrieved by the proceedings of the commissioners appointed as aforesaid, he, she or they, conceiving themselves so aggrieved, shall apply to the court of common pleas, in the manner directed in the first section of this act, which is hereby directed to appoint double the number of commissioners as were appointed for the proceedings complained of, a majority of whom, after giving notice, hearing the parties, and viewing the premises as before directed, may, and they hereby are empowered and directed, to make a different order of maintenance or division, as to the bank and works; and alter, shut up, or relay the water courses at their discretion, in such manner, as to them may seem most beneficial for the safety and improvement of the meadows, and just and equitable between all parties concerned; and likewise alter the place of making and repairing any banks or works, whenever such alteration may become necessary, by wash, breaches or otherwise; and make a certificate thereof in manner aforesaid, which certificate, as well as all other certificates of laying out the banks, works and water-courses, or either of them, or of dividing into shares, any banks, works and water courses, shall be recorded in the road book, by the clerk of the court as aforesaid.

Owners, aggrieved by the commissioners, how to be redressed

18. *And be it further enacted*, That in all cases, where sudden breaches may happen, or other circumstances render immediate repairs necessary, either, where the banks and works are under the direction of managers, or divided into parts to be maintained by the different owners or occupiers, and the manager or managers, owner or owners, or occupiers, whose duty it is to stop or repair the same, shall neglect or refuse to stop such breach or breaches, or make the repairs immediately necessary, then, and in all such cases, it shall and may be lawful for any owner or owners, or possessors, to enter upon the premises, and make the

Sudden breaches, how to be repaired.

1788.

necessary repairs in the same manner, and under the same restrictions, as the manager or managers, owner or owners, or occupiers, are by this law directed and empowered to do and perform the same, and recover the expense attending such repairs, in any court, wherein the same may be cognizable, with costs, from the person or persons, or managers, whose duty it was to do and perform such repairs.

Owners damaging the bank, to make it good.

19. *And be it enacted*, That if any owner or possessor of any meadow, lying in company, or any other person by his or her order, shall wilfully cut his or her bank or dam, or open his or her floodgate, or sluice or sluices, and thereby let in the tide, at any time between the first day of April, and first day of December, in any year hereafter, without the consent of the other owner or owners, or possessors, of meadows lying within the same bank or dam, and thereby damage the property of his or her neighbors, such person or persons, so offending, shall make good all damages occasioned thereby, to be adjudged by two or more freeholders, chosen by the parties, and recovered by the owner or owners, or possessor or possessors, receiving the damage, in any court, in which the same may be cognizable, with costs of suit.

Horses, cattle and swine, not to be put on the bank, contrary to the directions of the managers.

20. *And be it enacted*, That in all cases where banks or dams are maintained by a tax, and divided from the adjoining meadows by a lawful fence, ditch or drain, made and repaired at the expense of the company, if any owner or occupier shall put or keep on, or suffer to be put or kept on the part of the bank or dam assigned as his or her part to occupy, any horses, horned cattle, or swine, by his or her consent or order, contrary to the directions of the manager or managers, and thereby damage the bank, dam or works, such owner or occupier, so offending, shall make good all damages occasioned thereby, to be valued by two freeholders of the township, to be chosen, one by the managers or manager, and the other by the offender; and if the person so offending, shall neglect or refuse to join in the choice, then, and in such case, the manager or managers shall choose both; and if the two so chosen cannot agree, they shall choose a third, any two of whom shall value the damage; which damage shall be recovered by the managers or manager from the person who has offended as aforesaid, and applied towards repairing the bank or other works under the direction of the managers. *Provided always*, That nothing herein contained, except the twentieth section of this act, shall extend to interfere with any private law heretofore passed, or any agreement heretofore made, for banking and draining of meadows, without the consent of all persons concerned therein.

To what banks and drains this act shall not extend.

Fees of the court, clerk of the court, and commissioners.

21. *And be it enacted*, That the fees to be paid for the different services required by this act shall be as follows:

To the court, for appointing commissioners and giving a certificate, or for hearing the applicants, where no certificate is granted, the sum of ten shillings.

To the clerk of the court, for recording the certificate of the appointment of commissioners, seven pence per sheet, allowing ninety words to a sheet.

And to each of the commissioners, seven shillings and six pence per day, for every day he may be employed in laying out the banks, works and water courses, to be paid by the applicants; but in all cases where the banks, works and water courses, or either of them, are maintained by a tax, the above costs shall be paid by the treasurer of the company; and the receipts of the court, clerk and commissioners, shall be sufficient vouchers for so much of the company's money.

1789.

Supplement, 10th February, 1819.

AN ACT for the preservation of cranberries.

PAT. 88.

Passed the 10th of November, 1789.

WHEREAS it has been represented to the legislature, that cranberries, if suffered to remain on the vines until sufficiently ripened, would be a valuable article of exportation; **THEREFORE—**

Preamble.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if any person or persons shall, after the passing of this act, take or gather from the vines, at any time after the first day of June, and before the tenth day of October, cranberries, on the common or unlocated lands within this state, or on any lands, not their own property, or for which they pay no tax, such person or persons shall forfeit and pay, for every such offence, the sum of twenty shillings, and also, the further sum of ten shillings, for every bushel so taken or gathered within the times aforesaid, and so in proportion for a greater or lesser quantity, to be sued for and recovered in any court where the same may be cognizable, with costs of suit, to be applied, one half, if on the common or unlocated lands, to and for the use of the county where the offence shall have been committed, or if on any of the located lands, one half to be paid to the owner or possessor of said land, and the other half, together with the cranberries, so as aforesaid taken and gathered, to the use of the persons who shall sue for and recover the same.

Penalty on persons who shall gather cranberries on lands not their own, and how to be recovered and applied.

AN ACT for the more easy partition of lands held by coparceners, joint tenants, and tenants in common.

PAT. 89.

Passed the 11th of November, 1789.

WHEREAS the proceedings, at common law, upon writs of partition between coparceners, joint tenants, and tenants in common, are found to be very tedious and expensive, and in many instances oppressive, by reason of the plaintiffs or demandants being obliged to pay the whole cost and charges of such writs and actions, although many other persons may be

Preamble

1789.

equally benefited thereby, whereby frequent applications have been made to the legislature for private acts, for the partition of particular tracts of land; which applications are troublesome and inconvenient to the persons applying, consume the time of the legislature, and retard the business of the state; for remedy whereof, in future—

Judges of the supreme court and of the courts of common pleas, authorized to appoint commissioners to make partition of lands.

Application for such partition, and names of the commissioners to be advertised.

Form of advertisement.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That any person, being a coparcener, joint tenant, or tenant in common, in any tract or tracts of land within this state, may at any time apply to any one or more of the justices of the supreme court of this state, or to any three or more of the judges of the inferior court of common pleas of the county, wherein such lands may lie, for a partition of such tract or tracts of land; whereupon the said justice or justices, or judges, shall ascertain the number of equal shares or parts in which such tract or tracts were, or at the time of such application, are held by the original coparceners, joint tenants, or tenants in common, and shall nominate three persons, not interested in the said land, as commissioners, to make partition of such tract or tracts, into as many parts or shares, as the same was originally held; and the said justice or justices, or judges, shall thereupon order an advertisement to be inserted in one of the public newspapers of this state, and in such other public newspapers or places, as the said justice or justices, or judges shall direct, for six weeks successively, to the following or like effect, he or they making such alterations or additions, as the nature of the case may require.

By esquires, chief justice (or justices) of the supreme court of New-Jersey, or judges of the inferior court of common pleas of the county of

NOTICE is hereby given, that on application to me, or us, by of who claims an undivided part of all that tract of land, (giving a description of the tract or tracts intended to be divided) I, or we, have nominated A B, C D, and E F, commissioners, to divide the said tract, (or tracts) of land, into equal shares or parts, and unless proper objections are stated to me, or us, at on the day of next, (which is to be at least two months from the date of the notice) the said A B, C D, and E F, will then be appointed commissioners to make partition of the said land, pursuant to an act, entitled "An act for the more easy partition of lands, held by coparceners, joint tenants, and tenants in common," passed the day of Given under our hands this day of

The judges, in the instrument appointing commissioners, to describe the land, and to ascertain the number of shares into which it is to be allotted.

2. *And be it further enacted by the authority aforesaid,* That if no objections are made before the said justice or justices, or judges, on the day appointed by him or them for that purpose, to the persons nominated as commissioners, then the said justice or justices, or judges, shall, in writing, under his or their hands and seals, appoint the persons, so nominated, to be commissioners to divide the said land, pursuant to the directions prescribed in this act, and the said justice or justices, or judges, shall, in the said

writing, describe the tract or tracts so be to divided, and direct the number of parts or shares into which the same is to be allotted; but if objections are made to the persons nominated as commissioners, or to any of them, the said justice or justices, or judges, shall then proceed to hear and determine such objections, and in case he or they find them well founded, then to appoint under his or their hands and seals, other fit and disinterested persons in the room of those, he or they may think proper to remove.

1789.

3. *And be it further enacted by the authority aforesaid, That* the commissioners so appointed, before they proceed to the execution of the powers and authority vested in them by this act, shall be severally sworn or affirmed before one of the justices of the supreme court, or any judge of any inferior court of common pleas, that they will honestly, faithfully, and impartially make the partition intended, and perform the trust, duties and services required of them by this act, to the best of their skill, knowledge and judgment.

Commissioners to take an oath of office.

4. *And be it further enacted by the authority aforesaid, That* the commissioners shall cause a survey to be made in their presence, of the tract or tracts to be divided, and shall then proceed to divide the same into the number of parts or shares directed by the said justice or justices, or judges, in the writing containing their appointment, each part or share to contain one or more lots, as the commissioners may think proper, they having due regard in the partition to the situation, quantity, quality, and advantages of each part or share, so that they may be equal in value, as nearly as may be; and if the bounds of any tract or tracts, so to be divided, shall be controverted, the commissioners are hereby directed, if such controverted part is valuable, to separate the same from the uncontroverted part, and to make partition of the tract or tracts, in such manner, that a proportion of the controverted part may be allotted to each share, as well as a proportion of the uncontroverted part; and the said commissioners, previous to the said survey, shall administer an oath or affirmation to the surveyor, and chain-bearers, that they will well and truly perform their respective duties, honestly and impartially; which oath or affirmation, any one of the said commissioners is hereby empowered to administer.

Commissioners to cause a survey to be made of the land, and then to divide the same into the requisite number of shares.

Commissioners to administer an oath to the surveyor and chain bearers.

5. *And be it further enacted by the authority aforesaid, That* the said commissioners shall number the several parts or shares by them laid off, from number one, progressively, and shall in the same manner number each lot in the several shares, if the same contain more than one lot, and shall make a true field book, specifying the bounds and numbers of each lot, and also a map or maps of the tract or tracts, on which the several shares or lots shall be laid down and numbered, and shall keep an exact and particular account of their time expended in the execution of the duties of this act, and of the money due for the same, and also of all expenses accrued for surveying or otherwise, agreeably to the directions of this act; and the said commissioners shall thereupon give notice, by advertisement in manner aforesaid, for three

Commissioners to number the shares, and make a field book of each lot.

After which, notice to be given of the time and place of making allotment by ballot.

1789.

Judges to assist the commissioners, if required.

Mode of making the allotments.

Judges and commissioners to issue precepts for witnesses.

The appointment of commissioners and their oath of office, and the map and field book to be recorded in the clerk's office.

weeks successively, that on a certain day by them named, not less than one month from the date of such notification, attendance will be given at a place therein named, and an allotment, by ballot, take place, of the several parts or shares of the tract or tracts therein described, to the original coparceners, joint tenants, and tenants in common, their heirs or assigns.

6. *And be it further enacted by the authority aforesaid,* That on application made to the said justice or justices, or judges, by any one of the parties to the partition intended to be made, the said justice or justices, or judges, shall attend at the time and place specified in the advertisement of the commissioners, and shall, with the assistance of the said commissioners, proceed to allot the several parts or shares of the tract or tracts intended to be divided in the manner herein after described; but if no application shall be made to the said justice or justices, or judges, for his or their attendance, then the said commissioners shall, on the day appointed for that purpose, proceed, in a public manner, to number as many tickets, as there are shares of land marked on the map, which shall be put in a box, and the names of the original coparceners, joint tenants, or tenants in common shall be put, in separate tickets, into another box, when a person, appointed by the said justice or justices, or judges, or commissioners, shall proceed to draw a ticket of the names, and then a ticket of the numbers, and so proceed until all the tickets are drawn, and the share on the map, bearing the numbers of the ticket drawn next after drawing the ticket with the name, shall be the separate and divided share of that original coparcener, joint tenant, or tenant in common, his or her heirs or assigns, in the land so divided; of which balloting the said justice or justices, or judges, or commissioners, shall make a full and ample certificate under his or their hands and seals, specifying particularly the time, place, and manner of balloting, and the allotment of the shares.

7. *And be it further enacted by the authority aforesaid,* That the said justice or justices, or judges, and the said commissioners, are hereby authorized, as the case may require, to issue his or their precept or precepts, under his or their hands and seals, commanding such person or persons, who are able to give any necessary information, to come before him or them, when and where, he or they may direct, to testify, by an oath or affirmation, concerning such acts, matters or things, as may be necessary for the said justice or justices, judges or commissioners to investigate in the execution of the trust, duties and services required of them by this act, and to bring with them all such patents, surveys, maps, records, deeds, or other writings, as may be necessary to be examined by the said justice or justices, judges or commissioners.

8. *And be it further enacted by the authority aforesaid,* That the said commissioners shall transmit the writing containing their appointment, and their oath or affirmation of office, properly certified by the person administering the same, and the map and field book, and also their accounts, to the justice or justices, or judges, from whom they received their appointment, or in case

of their death, resignation or removal, then to any other justice or justices, or judges of the same court, who, after inspecting the same, shall order the said instruments, excepting the account of expenses, to be recorded in the clerk's office of the supreme court, or in the clerk's office of the county, in which the lands lie, which shall be good evidence of such partition; and which partition shall be as valid, and effectual in law to divide and separate the said lands, as if the same had been made on writs of partition, according to the course of the common law.

1789.

9. *And be it further enacted by the authority aforesaid,* That the said justice or justices, or judges, shall be allowed for the services required of them by this act, at the rate of thirty shillings, and the said judges at the rate of ten shillings a day each, while employed in the said business, and the said commissioners at the rate of fifteen shillings a day each, and the witnesses at the rate of six shillings a day each.

Fees of judges, commissioners and witnesses.

10. *And be it further enacted by the authority aforesaid,* That in case of the death, resignation, neglect, or refusal of any of the commissioners to be appointed by virtue of this act, before the trust, duties and services hereby required of them shall be completed, that then the said justice or justices, or judges, or in case of his or their death, resignation or removal, any other of the justice or justices, or judges, shall, by writing under his or their hands and seals, appoint another commissioner or commissioners, who shall be vested with the like powers and authority, as if he or they had been originally appointed.

On the death, resignation, or refusal of a commissioner, another to be appointed.

11. *And be it further enacted by the authority aforesaid,* That after the said justice or justices, or judges, shall have ascertained the whole expense of such partition, he shall divide the same among the several parts or shares, which shall be paid by the persons, to whom such shares were allotted, their heirs or assigns, within four weeks after the same shall be ascertained, or in default of payment of such expense, the said justice or justices, or judges, are hereby authorized to direct a sale to be made, by the commissioners, of so much of those parts or shares, deficient in paying the expense, as will be sufficient to pay their respective proportions thereof, together with the expense accruing on such sale; and the said justice or justices, or judges, shall direct the same to be sold by the said commissioners, at public auction, to the highest bidder, whereof four weeks notice shall be previously given in one of the said newspapers, and in three of the most public places in the county, in which the land lies; and the said commissioners' deed to the purchaser shall pass as good a title for the separate enjoyment of the same, as if all the owners and claimants of shares of the entire tract divided had joined therein.

Expense of partition, how to be ascertained, apportioned, and paid.

12. *And be it further enacted by the authority aforesaid,* That nothing in this act contained shall be so construed, as to tend to injure, prejudice, defeat or destroy the estate, right, or title, of any person or persons claiming such tract or tracts of land, or any part thereof, or any thing therein, by title under any other per-

This act not to affect paramount titles, or the rights of third persons, or of the general proprietaries.

1789.

son or persons, or by title paramount or superior to the title of such coparcener, joint tenant, or tenant in common, among whom partition is to be made; and that nothing in this act contained shall extend to the partitioning of the lands held in common by the general proprietors of the eastern or western divisions of this state.

See act to compel partition, 9th March, 1797.

See supplement, 7th February, 1816.

PAT. 92.

AN ACT to ratify on the part of this state, certain amendments to the constitution of the United States.

Passed the 20th of November, 1789.

Preamble.

WHEREAS the congress of the United States, begun and held at the city of New-York, on Wednesday, the fourth day of March, one thousand seven hundred and eighty-nine, resolved, two thirds of both houses concurring, that sundry articles be proposed to the legislatures of the several states, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said legislatures, to be valid to all intents and purposes, as part of the said constitution: *And whereas* the president of the United States did, in pursuance of a resolve of the senate and house of representatives of the United States of America, in congress assembled, transmit to the governor of this state, the amendments proposed by congress, which were by him laid before the legislature, for their consideration; WHEREFORE—

Ratification of certain articles of amendment, proposed by congress, to the constitution of the United States.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the following articles, proposed by congress in addition to, and amendment of the constitution of the United States, to wit,

ARTICLE I.

“After the first enumeration required by the first article of the constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred; after which, the proportion shall be so regulated by congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred; after which, the proportion shall be so regulated by congress, that there shall not be less than two hundred representatives, nor more than one representative for every fifty thousand persons.

ARTICLE III.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE IV.

1789.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE V.

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE VI.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE VII.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VIII.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district, wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE IX.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact, tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE X.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

1789.

ARTICLE XI.

The enumeration, in the constitution, of certain rights, shall not be construed to deny, or disparage others retained by the people.

ARTICLE XII.

The powers, not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people;" be, and the same are hereby ratified and adopted by the state of New-Jersey.

The 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 articles of amendment, have been adopted by three fourths of the legislatures of the several states, and are become a part of the constitution of the United States. The 1st and 2d articles have not been adopted.

See acts 22d Feb. 1804, and 13th Feb. 1811.

PAT. 93.

AN ACT empowering certain creditors to secure their debts by mortgage, and for other purposes therein mentioned.

Passed the 25th of November, 1789.

Preamble.

WHEREAS it has been doubted, whether an alien friend can secure debts due to himself, from subjects of the state of New-Jersey, by deed of mortgage of lands and tenements within this state, given and executed, or to be given and executed by any of the citizens or subjects of this state, to such alien friend; and as the removing such doubts, and providing security for foreigners, the better to enable them to recover their debts at the day assigned for payment, will greatly conduce to promote and encourage trade, and increase the credit of the citizens of this state; THEREFORE—

Rights of alien friends, being mortgagees, not to be defeated on account of alienism.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the right, title, and claim of any alien friend or friends, his or their heirs, executors, administrators or assigns, under any deed of mortgage of any lands, tenements, or real estate, lying and being within the state of New-Jersey, granted or made to such alien or aliens, at any time before or after publication hereof, shall not be defeated, merely upon pretence of alienism in the grantee or mortgagee, grantees or mortgagees; but that such right, title and grant, by mortgage, shall be adjudged to be good in the mortgagee or mortgagees, his and their heirs, executors, administrators and assigns, the plea, or pretence of alienism in such case notwithstanding.

Executors, administrators, or assigns of such alien mortgagee, may commence suits upon mortgages.

2. And be it further enacted by the authority aforesaid, That all and every person or persons, his or their executors, administrators or assigns, being alien friend or friends, shall and may hereafter lawfully commence and prosecute any action or actions, suit or suits, in any court or courts of law or equity in this

state, upon any deed or deeds of mortgage, of any lands, tenements or real estate, lying and being within this state, as fully, freely, and effectually to all intents and purposes, as if such mortgagee or mortgagees, his or their executors, administrators or assigns, had been naturalized, or natural-born subjects.

1789.

AN ACT to establish and confirm the charter, rights and privileges of the borough of Elizabeth. PAT. 94.

Passed the 28th of November, 1789.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the said free borough and town of Elizabeth from henceforth for ever may and shall be, and is hereby made and constituted a free town and borough of itself; and that all the houses and buildings, lands, water, watercourses, ponds, pools, rivers, brooks, meadows, marshes, soils, ground and grounds, situate, lying, and being in the borough and town of Elizabeth aforesaid, beginning at the mouth of Rahway river, where it falls into the sound; thence running up said river to the mouth of Robinson's branch; thence westerly along the division line, between the counties of Essex and Middlesex, until it comes to Green Brook, which divides the two counties of Essex and Somerset; thence north-easterly along Green Brook to the head thereof; thence along the line of the county of Somerset, on a direct line to the lower corner of William Dockwra's patents on Passaick river; thence down Passaick river to where Minisink path crosses the same; thence on a direct line to the bluff end of the mountain, called the North Mountain; from thence along the foot of the said mountain to the division line between Newark and Elizabeth-town; thence as that line runs to dividend hill; thence to the head of the creek, called Bound creek; thence down the said creek to Arthur Cull bay; thence down the said bay to the sound, which parts Staten-Island from Elizabeth-town; and thence down the sound to where it began; shall from henceforth be the metes, bounds and jurisdictions of the said free town and borough of Elizabeth, and that the same, as herein butted and bounded shall be, and the same is hereby ordained, constituted and declared to be from time to time, and for ever hereafter, a town-corporate; and that all and singular the inhabitants thereof, who, by the laws of this state, are entitled to a residence therein, and their successors from henceforth and for ever, may, and shall be one body corporate and politic, in deed, fact and name, and shall be called, named, and distinguished, by the name of, "The Borough of Elizabeth;" that there shall, in the said borough, from henceforth be a body politic, consisting of a mayor, deputy mayor, recorder, seven aldermen, twelve common council men or assistants, one sheriff, one coroner, one chamberlain or treasurer, one town-clerk, one marshal, one high-constable, seven constables, four assessors, four collectors of taxes, and six overseers of the poor, to be assigned, nominated, elected, chosen, appointed and sworn,

Borough of Elizabeth constituted a free town.

Its boundaries and extent.

Its inhabitants constituted a body politic, by the name of the borough of Elizabeth.

The officers of the said borough.

1789.

in and for the said borough, as is herein and hereby appointed, directed, and mentioned, to continue in succession for ever: and for the more full and perfect erection of the said corporation or body politic, to consist, contain, and be of the before mentioned officers and ministers of the said borough;

The mayor, deputy mayor, recorder, aldermen and town-clerk, to be appointed by the legislature, and to be amenable to the same.

The mayor, deputy mayor, and aldermen to be judges of the court.

The aldermen to be justices of the peace of the borough.

When and by whom certain other officers of the borough shall be elected.

Their duration in office, powers, and duties.

Common council to elect the treasurer and subordinate officers.

2. *Be it further enacted by the authority aforesaid,* That the mayor, deputy mayor, recorder, aldermen, and town-clerk, shall be appointed by the council and general assembly of this state, in joint-meeting, and commissioned by the governor, in the same manner as the judges and justices of the peace, and clerks of the inferior courts of common pleas, and quarter-sessions of the peace, throughout the state, are appointed and commissioned, and shall be in like manner amenable to the council and general assembly: that the said mayor, deputy mayor, and recorder shall be judges of the court, and justices of the peace, within the said borough, and that the said mayor, and in his absence, the deputy mayor, for the time being, shall be clerk of the market within the same, with full power to execute the said office of clerk of the market throughout the said borough; and also, that the said aldermen shall be justices of the peace, for the borough of Elizabeth; that the common council men or assistants, and all other the before mentioned officers and ministers of the said borough, whose appointments are not herein otherwise provided for and prescribed, shall be chosen by the freeholders and freemen thereof, at their annual meetings, which shall be held at the same time that the annual town-meetings in the other townships in the county of Essex shall by law be held; that the sheriff and coroner, being elected by the said freeholders and freemen, and commissioned by the governor, upon a certificate of their election, signed by the mayor, deputy mayor, or recorder, with any three or more of the aldermen, and being so commissioned, shall or may continue in office one year thereafter, and shall be vested with all the power and authority during said year, and entitled to all the privileges respectively, within the said borough, and subject to all the penalties for neglect of duty, which the sheriffs and coroners in the several counties within this state are vested with, entitled or subject to in like cases and circumstances, and shall give security for the due performance of their respective offices in like manner; and the constables, assessors, collectors, and overseers of the poor, so chosen as aforesaid, shall be vested with all the powers and authorities, and entitled to all the privileges within the said borough respectively, and be subject to all the penalties for neglect of duty, which the like officers in the several townships and precincts in this state are vested with, entitled, or subject to in like cases and circumstances; that the chamberlain or treasurer shall be from time to time elected by the mayor, recorder, aldermen and common council men of said borough, in common council assembled, or the greater number of them; and also, that the said mayor, deputy mayor, recorder, aldermen, and common council men, in common council assembled, shall and may from time to time, elect, nominate and appoint such other subordinate officers of the borough aforesaid, not herein named, as they, or the greater number of them, the

mayor, deputy mayor, or recorder being one, shall think necessary, for the better ordering and governing the said borough; which officers, so appointed, shall continue in office until others shall be appointed to succeed them, and be sworn into office. *Provided always*, That all the several officers, appointed pursuant to the directions of this act of incorporation, before they severally take upon them the execution of their respective offices, shall take and subscribe the oath of allegiance to this state, and also take oaths of office.

1789.

Proviso, that all the said officers take the oath of allegiance and of office.

3. *Be it further enacted by the authority aforesaid*, That the aforesaid mayor, aldermen, and common council men, be, and their successors shall for ever hereafter, be in deed, fact and name, a body corporate and politic, and that they the said body corporate and politic, shall be known and distinguished in all deeds, grants, bargains, sales, writings, evidences or otherwise howsoever, and in all courts for ever hereafter, plead and be impleaded by the name of "The mayor, aldermen, and commonality of the borough of Elizabeth," and that they shall be able, and in law capable to have, get, acquire, purchase, receive, take, and possess, lands, tenements, hereditaments, jurisdictions and franchises, as well without as within the said borough, to them and their successors, in fee-simple or otherwise howsoever; and also goods, chattels and other things, of what nature or quality soever, to the amount of one thousand pounds proclamation money per annum, and to grant, bargain, sell, let, set, or assign lands, tenements, hereditaments, goods and chattels, and to do all other things whatsoever, by the name aforesaid, in as full and ample manner, to all intents and purposes, as any person, or any body politic and corporate is able to do.

The mayor, aldermen, and common council constituted a body politic.

Their name.

May acquire and hold property to the amount of one thousand pounds a-year.

4. *And be it further enacted by the authority aforesaid*, That the said mayor, recorder and aldermen, for the time being, shall and may, from time to time, and as often as they shall think meet, admit and receive under the common seal of the said corporation, to be of the commonality of the said borough, such, and so many persons, as they the said mayor, deputy mayor, recorder and aldermen, or the greater part of them, shall think meet, and every person and persons, so as aforesaid admitted and received, shall immediately thereafter be freemen of the said borough, and have and enjoy all such privileges, as if the said person or persons had been especially and particularly named herein.

The mayor, recorder and aldermen may admit persons to be freemen of the borough.

5. *And be it further enacted by the authority aforesaid*, That the mayor, and his successors, mayors of the said borough, for the time being, shall have the charge and free government of the said borough, during the time of his or their bearing the said office, in as full and ample manner, as is usual and customary for mayors of corporations to have; that the deputy mayor shall, in all matters and respects, act and do all things, which, to the said office of mayor of the said borough, do, or ought to belong, during the sickness, absence or other disability of the said mayor for the time being, which deputy shall have full power and authority to act and do in the absence or during the sickness or other disability of the mayor, for the time being, all and singular those

Powers vested in the mayor and deputy mayor.

1789.

things, which to the office of mayor of the said borough belongs, or shall belong, or appertain, to all intents and purposes whatsoever; and in case it should happen that the mayor of the said borough, or any of his successors, mayors of the said borough, for the time being, shall decease during the time of his mayoralty, then and in such case, upon, and after the death of such mayor, the said deputy mayor shall be, and he is hereby appointed and declared mayor of the said borough, to continue and be continued in, and to execute the same office of mayor of the said borough, from the death of such mayor, until another shall be chosen, appointed and sworn into the said office of mayor of the said borough, and so as often as such case shall happen.

The mayor, deputy mayor, recorder, and aldermen to constitute a court of common pleas.

Times of holding the same.

6. *And be it further enacted by the authority aforesaid,* That the said mayor, deputy mayor, recorder, and aldermen of the said borough, and their successors for ever, shall and may have and hold, in the name of the state of New-Jersey, one court of common pleas within the said borough, to begin upon the first Tuesday in the month of March, June, September, and December in every year, to continue and be held for any time not exceeding four days, before the mayor, deputy mayor, or the recorder for the time being, and any two or more of the aldermen, for the time being, or any three or more of them, whereof the mayor, recorder, or deputy mayor, to be one, who shall and may hold pleas, and have the full cognizance of all, and all manner of complaints, actions, and pleas of trespass vi et armis, replevin, trover, and conversion, trespass on the case, debt, detinue, covenant, deceit, contracts, contempts, penalties, forfeitures, and all other personal actions arising and accruing within the said borough, with full power and authority to hear and determine the same, and such actions and pleas, and judgment therein to render, and an execution thereof to award and make, and to act and do every thing therein in such manner and form, and by such and the like methods, process and proceeding, as fully and amply, as in any other court of record, in such and the like cases is used, or can or may be acted and done, according to the laws and customs of the state of New-Jersey.

The mayor, deputy mayor, recorder, and aldermen to constitute a court of general sessions of the peace.

Times of holding the same.

7. *And be it further enacted by the authority aforesaid,* That they the said mayor, deputy mayor, recorder and aldermen of the said borough, for the time being, or any three or more of them, whereof the mayor, deputy mayor, or recorder, for the time being, to be one, shall and may for ever hereafter hold and keep four courts of general sessions of the peace in and for the said borough, to begin, one of them, on the first Tuesday in the month of March, one other, on the first Tuesday in June, one other, on the first Tuesday in September, and the other on the first Tuesday in December, in every year, each of which sessions of the peace shall and may last and continue, and be held for any time not exceeding four days, and shall and may for ever hereafter have the full power and authority to inquire of, hear, and determine, within the said borough, all, and all manner of felonies, imprisonments, riots, routs, oppressions, extortions, forestallings, trespasses, offences, and all and singular other wills and

deeds whatsoever, within the said borough, from time to time perpetrated, done, committed, arising or happening, and all actions of debt, and other actions whatsoever within the said borough, which to justices of the peace are incumbent, or do in any manner belong, or which shall hereafter belong, or be incumbent on them, or which in any manner before justices of the peace ought or may be inquired into, heard and determined, together with the correction and punishment thereof, and that they, in their said court of quarter-sessions, shall have the sole, only, and exclusive right and power of licensing all and every inn-keeper, tavern-keeper, and retailer of strong liquor, inhabiting within the said borough, as to them shall seem convenient, and from them and every of them, so to be licensed, to require and take recognizance agreeable to the laws of this state, and no other license for such purpose within the said borough, granted by any other court, shall be lawful.

1789.

8. *And be it further enacted by the authority aforesaid,* That the said town clerk, who shall be called clerk of the borough of Elizabeth, and his successors for ever, shall act and do all things within the borough aforesaid, which any town clerk of, and in any borough or town-corporate by virtue of his office, can or ought to do; that for ever hereafter the clerk of the said borough, for the time being, shall also be clerk of the said court of common pleas, to be held as aforesaid, and also clerk of the peace, and of the sessions of the peace, for and in the said borough, from time to time to be held, and all and singular those things, which to the office and offices of such clerk do and shall appertain, to do, execute, and perform; and also, shall and may require, demand, take, accept, hold, keep, and enjoy all fees, perquisites and profits, which to any clerk of the peace and sessions of the peace, or to any clerk of any court of common pleas, in any county of this state, do or ought to belong; that the said town-clerk, and his successors, clerks as aforesaid, upon their appointment, shall take the oath of allegiance to the state, and also the usual and legal oath of office, before the mayor, deputy mayor, or the recorder of the said borough, for the time being, each of whom are hereby authorized to qualify into office, as aforesaid, such clerk of the said borough; that the said clerk, for the time being, shall be, and hereby is authorized and empowered to administer the oath of allegiance aforesaid, and also the usual and legal oaths of office to the mayor, deputy mayor, recorder, aldermen, sheriff, coroner, and all and every other officer and minister, who have been, are, or shall be appointed or elected to serve in and for the said borough, and who are, and shall be by law, entitled to the same; but in case the said clerk shall be absent, dead or removed, the said mayor, deputy mayor, or recorder, shall and may administer the oaths aforesaid, to all such officers, when duly elected or appointed, and report the same to the said clerk, or his successor, to be enrolled.

The town-clerk to be clerk of the pleas and sessions.

To take the oath of allegiance and of office.

The clerk to administer the said oaths to all persons who shall be elected into office, in and for the said borough.

9. *And be it further enacted by the authority aforesaid,* That the said mayor, deputy mayor, or recorder, and commonalty of the said borough, and their successors, shall and may make, and

The corporation may make and use a common seal.

1789.

May build a
common hall
or town-house,

and a gaol.

Borough of
Elizabeth to
have the use of
the gaol of Es-
sex.

The corpora-
tion empower-
ed to make by-
laws.

The corpora-
tion empower-
ed to build cer-
tain houses.

for ever hereafter use one common seal, and the same may alter and break, and a new seal may make, have, and use, as the common seal of the said borough, for the sealing of all and singular deeds, grants, conveyances, contracts, bonds, articles of agreements, assignments, powers, and authorities, and all and singular other instruments, affairs, and business, any way touching, concerning, and relating, to the said corporation, or to the certifying or assuring of any matter or thing, of a private or public nature, necessary to be certified, or assured, by the said corporation, or by the mayor thereof, or of any of the officers, appertaining to the mayoralty. That the mayor, recorder, aldermen, and common council, shall and may build, or cause to be built, at the place, or within half a mile of the place where the old common hall stood, a common hall, or town house, to be called by the name of "The Common Hall of the borough of Elizabeth;" wherein the said mayor, recorder, aldermen and common council men shall, and may from henceforth for ever, lawfully assemble themselves together, to deliberate and consult, touching the public welfare of the said borough; and also one or more gaol or gaols within the said borough, as they may think convenient and necessary.

10. *And whereas* the common hall and gaol of the said borough, were lately burned by the enemy; therefore, *Be it further enacted by the authority aforesaid*, that the said borough of Elizabeth shall have the free use of the gaol of the county of Essex, and that it shall and may be lawful for the courts and magistrates of said borough, and each of them, and the sheriff and coroner of said borough, to send, carry, commit, and confine every person or persons, offender or offenders, (whom by law, they or either of them, are authorized to commit to gaol, or imprisonment,) to and in the said gaol, of the said county of Essex, and the sheriff, and gaoler, of said county, is hereby directed and required to receive and confine him, her, or them, in close custody, until remanded back by legal authority, to the said borough, or until he, she, or they, be from thence discharged by due course of law. And that the said mayor, deputy mayor, recorder, aldermen, and common council men, or the greater number of them, and their successors, (of which the mayor, or his deputy, or the recorder, to be one,) shall and may from time to time, in their public councils, freely and lawfully make and establish all such ordinances, orders and by-laws, as may tend to the good and wholesome government of the said borough, and of the several officers and ministers thereof, and for the laying out, and dividing the said borough into wards and precincts, and to the public benefit of the inhabitants of the same, and such ordinances, orders, and by-laws, which shall as aforesaid be made, are hereby confirmed, and shall be duly put in execution.

11. *Be it further enacted by the authority aforesaid*, That the act, entitled "An act to enable the mayor, recorder, aldermen and common council men of the free borough and town of Elizabeth, to build a poor house, work house, and house of correction, within the said borough, and to make rules, orders and or-

finances, for the government of the same, and to repair the gaols of the said borough,* passed June 21, 1754, shall be applied to the mayor, deputy mayor, recorder, aldermen, and common councilmen of the said borough of Elizabeth, hereby established and confirmed, which said corporation, in said act named, shall hereafter be called, and known by the name of the managers of the poor house of the borough of Elizabeth; and until the common hall of the said borough shall be rebuilt, and at any time, when they shall by any means be destitute of a common hall, they shall and may meet at any other place in said borough, and appoint officers, and do other business, as in and by said act is directed; and also, agree upon and order such sum and sums of money to be raised, as well for building the common hall and gaols aforesaid, as for the other purposes, in the said act mentioned pursuant to the directions thereof.

1789.

12. *And be it further enacted by the authority aforesaid, That* the mayor and recorder, for the time being, shall, and may, from time to time, so often as either of them shall think necessary, summon a common council of the said borough; and in case of the death, removal, or refusal, or other disability of any of the said officers to be elected and chosen by the freeholders and freemen as aforesaid, or on any other occasion, that a general meeting of the freeholders and freemen, may be thought necessary, the mayor, or deputy mayor, or the recorder, and any two aldermen, shall and may summon such general meeting, to elect another or other fit person or persons, instead of him or them, so dead, removed, refusing or disabled, or for such other occasion, which said freeholders and freemen so met, or the greater number of them, shall and may elect such officer or officers so wanted, and do every other act, that may be proper and necessary to be done at a general meeting. *Provided always, That* none of the by-laws, ordinances, and regulations of the said mayor, recorder, aldermen and commonalty, shall be repugnant to, or inconsistent with the constitution or laws of this state.

Mayor and recorder may summon a council.

The mayor, recorder, or any two aldermen may summon a general meeting of the freeholders.

By-laws not to be repugnant to the constitution or laws of this state.

13. *And be it further enacted by the authority aforesaid, That* all the lands, tenements, hereditaments, goods, chattels, and rights whatsoever of the corporation, known by the name of the mayor, aldermen and commonalty of the free borough and town of Elizabeth, be and they are hereby vested in the corporation hereby erected and established.

Estate of the former corporation vested in the present.

14. *And be it further enacted by the authority aforesaid, That* Samuel Potter, John Scudder, Benjamin Petit, John Tucker, Obadiah Meeker, Jesse Clark, John Hendricks, Amos Morse, William Harriman, Samuel Tyler, William Darby, and David Crane, be the present common council; that William Halsted, shall be, and he is hereby appointed present sheriff of the said borough and town-corporate; and William Shute, present chamberlain and treasurer of the said borough and town-corporate; and Nathan Woodruff, present marshal of the said borough and town-corporate; and also, Amos Morse, John Scudder, Wil-

The names of persons appointed to certain offices.

* For the act referred to in this section, see Allison's edition, page 198.

1789.

liam Woodruff, and Matthias Meeker, assessors ; Jeremiah Ballard, John Craig, Jesse Clark, and Robert Wade, collectors ; David Ross, high constable ; William Southwell, Joseph Searbury, Samuel Norris, Noadiah Potter, Charles Guilman, and Moses Austin, constables ; and Edward Thomas, John Craig, Jesse Clark, and David Crane, overseers of the poor of the said borough and town-corporate, until others shall be elected and appointed, as herein before is directed.

This act a public act.

15. *And be it further enacted by the authority aforesaid, That* this act shall be deemed and taken to be a public act, and such to be taken notice of by all persons and courts of justice whatsoever within this state.

Proviso ; that this act shall continue in force during the will of the legislature.

Provided always, That the powers, privileges and authorities granted by this act, to the said mayor, recorder, aldermen and commonalty of the borough of Elizabeth, shall only continue and be held by them during the will and pleasure of the legislature of this state, and nothing in this act shall be so construed as to prevent the repealing the same, and revoking and annulling the powers, privileges and authorities hereby granted.

See acts of November 6th, 1806, and November 23d, 1808.
See also, supplement, passed March 2d, 1820.

PAT. 99.

A SUPPLEMENT to an act, entitled "An act for the limitation of suits respecting titles to land."

Passed the 28th of November, 1789.

Preamble.

WHEREAS there may be divers ancient surveys of land fairly made, which by the neglect of officers, or through some casualty, have not been put on record, and others, the records whereof have been destroyed by fire or lost ; by reason whereof, and the natural decay of marked lines and corners, the ancient metes and bounds cannot be clearly ascertained but by testimony and reputation ; and whereas it hath been found, on running the lines of divers such surveys, that they hold more or extend further than their strict length of chain, large measure having been formerly allowed, even by the proprietors as an encouragement to location, of which avaricious persons do, or may take advantage against the owners and possessors of such lands, by confining their surveys to the nett length of chain, thereby making vacancies of valuable improved parts, some whereon buildings are erected and made, and on causing surveys to be made of such overplus, have procured and may procure the same to pass the council of proprietors without legal notice, or due preference given to the possessors, who may have innocently supposed their title was indefeasible, or otherwise would have willingly re-surveyed, covered and secured the same ; for remedy whereof in future—

What surveys shall be of no avail, without previous no-

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That no such newly made partial survey, now lying with

the council of proprietors, or which may hereafter be returned to them, or made on any lands improved or unimproved within what has been usually taken and deemed to be the ancient reputed boundary of such lands, shall be recorded or be of any avail to the person so surveying, unless it shall be made appear, by the testimony of at least two good and sufficient witnesses, that the possessor or possessors, holding such lands by survey, deed or otherwise, had been duly notified, for the space of six months previous to the making such survey, of the intention of doing thereof, and had refused or neglected to re-survey and cover such overplus lands.

1790.

tice to the possessor of the land.

2. *And be it further enacted by the authority aforesaid,* That if the council of proprietors shall refuse or neglect to give the preference to any prior survey, legally made, or to the possessor or possessors of any tract of land, enabling such possessor or possessors to cover with rights, and secure such overplus lands, which may be found within their ancient bounds, on such possessor or possessors making a re-survey of his or their lands within six months after such legal notice as aforesaid, that it shall and may be lawful for such possessor or possessors, or any other person legally authorized on his, her, or their behalf, to cause a re-survey to be made, agreeably to the ancient reputed lines and boundaries, either by a deputy surveyor, or some other person understanding the art of surveying, and appropriate so many rights thereon as will be sufficient to include the overplus, which surveyor or person so surveying, being duly qualified before a justice of the peace of the county wherein the land may lie, that the survey, so by him made, is just according to the best of his knowledge, the same may be produced to the clerk of the county, who is hereby required, on the receipt thereof, to record the same in the book directed to be kept in the respective counties, by the act, entitled "An act for the limitation of suits at law respecting titles to land," passed at Burlington the fifth day of June, seventeen hundred and eighty-seven, which survey so made and recorded, shall give such owner and possessor an absolute title in fee.

The council of proprietors to give preference to prior surveys; if they should not, the possessor may re-survey the land and cover the surplus by rights.

3. *And be it further enacted,* That nothing in this act contained shall be construed or taken to authorize any person or persons to make any survey within the certain or reputed bounds of any survey, or re-survey made and entered on record agreeably to the said recited act, any large or overplus measure therein contained, notice as aforesaid given, deficiency of rights or other plea to the contrary notwithstanding.

To what cases this act shall not extend

For the original act, see page 80 of this volume.

See act for the limitation of actions, 7th Feb. 1790.

AN ACT to repeal an act, entitled, "An act to establish and confirm the charter, rights, and privileges of the borough of Elizabeth, so far as the same extends to that part of said borough lying on the west side of the east branch of Rahway river."

PAT. 102.

Passed the 11th of November, 1790.

1790.

PAT. 102.

AN ACT to prescribe the manner of appointing senators of the United States, and electors of the president and vice-president of the United States, on the part of this state.

Passed the 12th of November, 1790.

Senators of the United States, when to be appointed.

Repealed by act, January 18th, 1815.

Vacancies, how to be supplied.

Electors of president and vice-president of the United States, when to be chosen.

Vacancies, how to be supplied.

Electors to meet at Trenton.

Their compensation.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That senators of the United States, on the part of this state, shall be appointed by the council and general assembly of this state, in joint-meeting assembled, *on the first Tuesday of November of every year, in which this state is authorized to elect a senator or senators of the United States,* at the place where the legislature shall then sit, and on such other day or days as may be appointed by the congress of the United States. And in case a vacancy or vacancies shall happen by death or otherwise, at any other time or times after the said first Tuesday of November of any year hereafter, and during the sitting of the legislature, then and in such case, the vacancy or vacancies so happening may and shall be filled on such other day or days as shall be appointed during such sitting, by the council and assembly of this state. And if a vacancy or vacancies by the death of either or both of the said senators, or otherwise howsoever shall happen, during the recess of the legislature, then the governor of the state, or in case of his death, absence or other disqualification, the vice-president of the council may make a temporary appointment or appointments until the next meeting of the legislature, which shall then fill such vacancy or vacancies in the manner before mentioned.

2. *And be it further enacted,* That the council and general assembly of this state, in joint-meeting assembled, on the said first Tuesday in November of every year, in which a president and vice-president of the United States is to be chosen, or at such other times as the congress of the United States may determine, during the sitting of the legislature, shall elect so many duly qualified persons as this state shall be entitled, by the constitution of the United States, to appoint as electors on the part of this state, for the purpose of voting for the president and vice-president of the United States, or either of them. And if any vacancy or vacancies by death, removal or otherwise, of such electors shall happen between the time of their appointment and the day which shall be affixed for the execution of the duties required of them by the constitution of the United States, it shall be lawful for the governor of the state, or in case of his death, absence or other disqualification, the vice-president of the council, to fill up such vacancy or vacancies, which may so happen.

3. *And be it further enacted,* That the electors so appointed shall meet at Trenton, on the day which the congress of the United States shall appoint for that purpose, and shall then and there proceed to execute the duties and services required of them by the constitution of the United States, in the manner therein prescribed; and the said electors shall receive for their services the daily pay and other allowance, which at such time shall be

allowed by law to the members of the legislature of the state, to be paid by the treasurer of the state on warrants to be signed by the president of the said electors, and the warrants in favor of said president, signed by a majority of the electors.

1790.

4. Executed.

5. *And be it further enacted*, That every person, who shall be elected a senator or elector on the part of this state, shall be commissioned by the governor of this state, or the person administering the government for the time being, under the great seal of the state.

Senators and electors to be commissioned by the governor.

See a supplement, passed the 31st of October, 1796.
See act 16th January, 1816.

AN ACT for vesting in the United States of America, the jurisdiction of a lot of land at Sandy-Hook, in the county of Monmouth. PAT. 103.

Passed the 16th of November, 1790.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the jurisdiction of this state, in and over a lot of land, situate at the point of Sandy-Hook, in the county of Monmouth, containing four acres, on which a light-house and other buildings are erected, shall be and the same is hereby ceded to, and vested in the United States of America, for ever hereafter.

AN ACT for altering and re-settling part of the boundary line, between the counties of Somerset and Middlesex. PAT. 103.

Passed the 24th of November, 1790.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the middle of the main six rod road, as established by law, from the ferry at the city of New-Brunswick, formerly called Inian's ferry, to the boundary line of the county of Hunterdon, on the road to Trenton, shall be the boundary line of those parts of the counties of Middlesex and Somerset, which are on the south side of the river Raritan.

The middle of the main road, leading from New-Brunswick to Trenton, to be the boundary line between Middlesex and Somerset.

2. *And be it further enacted by the authority aforesaid*, That all the lands and tenements, lying to the northward of the line herein before established, and heretofore belonging to the county of Middlesex, shall be, and are hereby annexed to the county of Somerset; and all the lands and tenements on the southward of said line, heretofore belonging to the county of Somerset, shall be, and are hereby annexed to the said county of Middlesex. *Provided always*, That nothing in this act contained, shall be construed or taken to discharge, or acquit any person or persons, whose lands and tenements, are by this act annexed to either of

Land lying northward of the line, annexed to Somerset, and lands southward, annexed to Middlesex.

1790.

PAT. 102.

AN ACT to prescribe the manner of appointing senators of the United States, and electors of the president and vice-president of the United States, on the part of this state.

Passed the 12th of November, 1790.

Senators of the United States, when to be appointed.

Repealed by act, January 16th, 1815.

Vacancies, how to be supplied.

Electors of president and vice-president of the United States, when to be chosen.

Vacancies, how to be supplied.

Electors to meet at Trenton.

Their compensation.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same That senators of the United States, on the part of this state, shall be appointed by the council and general assembly of this state in joint-meeting assembled, on the first Tuesday of November of every year, in which this state is authorized to elect a senator or senators of the United States, at the place where the legislature shall then sit, and on such other day or days as may be appointed by the congress of the United States. And in case a vacancy or vacancies shall happen by death or otherwise, at any other time or times after the said first Tuesday of November of any year hereafter, and during the sitting of the legislature, then and in such case, the vacancy or vacancies so happening may and shall be filled on such other day or days as shall be appointed during such sitting, by the council and assembly of this state. And if a vacancy or vacancies by the death of either or both of the said senators, or otherwise howsoever shall happen, during the recess of the legislature, then the governor of the state, or in case of his death, absence or other disqualification, the vice-president of the council may make a temporary appointment or appointments until the next meeting of the legislature, which shall then fill such vacancy or vacancies in the manner before mentioned.

2. *And be it further enacted*, That the council and general assembly of this state, in joint-meeting assembled, on the said first Tuesday in November of every year, in which a president and vice-president of the United States is to be chosen, or at such other times as the congress of the United States may determine during the sitting of the legislature, shall elect so many duly qualified persons as this state shall be entitled, by the constitution of the United States, to appoint as electors on the part of this state for the purpose of voting for the president and vice-president of the United States, or either of them. And if any vacancy or vacancies by death, removal or otherwise, of such electors shall happen between the time of their appointment and the day which shall be affixed for the execution of the duties required of them by the constitution of the United States, it shall be lawful for the governor of the state, or in case of his death, absence or other disqualification, the vice-president of the council, to fill up such vacancy or vacancies, which may so happen.

3. *And be it further enacted*, That the electors so appointed shall meet at Trenton, on the day which the congress of the United States shall appoint for that purpose, and shall then and there proceed to execute the duties and services required of them by the constitution of the United States, in the manner therein prescribed; and the said electors shall receive for their service the daily pay and other allowance, which at such time shall be

allowed by law to the members of the legislature of the state, to be paid by the treasurer of the state on warrants to be signed by the president of the said electors, and the warrants in favor of said president, signed by a majority of the electors.

1790.

4. Executed.

5. *And be it further enacted*, That every person, who shall be elected a senator or elector on the part of this state, shall be commissioned by the governor of this state, or the person administering the government for the time being, under the great seal of the state.

Senators and electors to be commissioned by the governor.

See a supplement, passed the 31st of October, 1796.
See act 18th January, 1816.

AN ACT for vesting in the United States of America, the jurisdiction of a lot of land at Sandy-Hook, in the county of Monmouth.

PAT. 103.

Passed the 16th of November, 1790.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the jurisdiction of this state, in and over a lot of land, situate at the point of Sandy-Hook, in the county of Monmouth, containing four acres, on which a light-house and other buildings are erected, shall be and the same is hereby ceded to, and vested in the United States of America, for ever hereafter.

AN ACT for altering and re-settling part of the boundary line, between the counties of Somerset and Middlesex.

PAT. 103.

Passed the 24th of November, 1790.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the middle of the main six rod road, as established by law, from the ferry at the city of New-Brunswick, formerly called Indian's ferry, to the boundary line of the county of Hunterdon, on the road to Trenton, shall be the boundary line of those parts of the counties of Middlesex and Somerset, which are on the south side of the river Raritan.

The middle of the main road, leading from New-Brunswick to Trenton, to be the boundary line between Middlesex and Somerset.

2. *And be it further enacted by the authority aforesaid*, That all the lands and tenements, lying to the northward of the line herein before established, and heretofore belonging to the county of Middlesex, shall be, and are hereby annexed to the county of Somerset; and all the lands and tenements on the southward of said line, heretofore belonging to the county of Somerset, shall be, and are hereby annexed to the said county of Middlesex. *Provided always*, That nothing in this act contained, shall be construed or taken to discharge, or acquit any person or persons, whose lands and tenements, are by this act annexed to either of

Land lying northward of the line, annexed to Somerset, and lands southward, annexed to Middlesex.

1791.

Artificers and
manufacturers
in the service
of the society
exempted from
certain taxes.

Proviso.

Number of
shares, and
amount of
each share.

Manner of re-
ceiving sub-
scriptions,
how regulated.

A proportional
reduction to
be made in
case of an ex-
cess of sub-
scription.

Times of pay-
ment.

5. *And be it further enacted by the authority aforesaid, That all artificers or manufacturers, in the immediate service of the said society, shall be free and exempt from all poll and capita- tion taxes, and taxes on their respective faculties or occupations, and from all taxes in the nature of general assessments, upon their persons, faculties or occupations; Provided, That this shall not be construed to exempt their property, of whatsoever kind, from taxes of a specific and definite nature per quantity, or per article, or according to a certain rate per centum of the true and absolute value thereof.*

6. *And be it further enacted by the authority aforesaid, That the original or capital stock aforesaid, shall consist of one hun- dred thousand shares, each share being one hundred dollars, and that any person, copartnership, or body politic, may subscribe for such number of shares, in the stock of the said company, which yet remain to be subscribed, as he, she, or they, shall think fit, until the whole number of shares subscribed shall amount to five hundred thousand dollars, after which it shall be in the dis- cretion of the directors to permit or not, further subscriptions, from time to time, and in such proportions as shall seem to them expedient, not exceeding, on the whole, the said sum of one mil- lion of dollars. And it shall be lawful for subscriptions to the said stock to be continued in the same manner, and under the same direction, as they have been heretofore conducted, until the day herein after named, for the first election of directors, after which it shall be the province of the said directors, to regulate the man- ner of receiving further subscriptions. And in case it should hap- pen, that the subscriptions which may be made after the passing of this act, together with those made prior thereto, should exceed the sum, which, in the judgment of the said directors, should be sufficient, in the first instance, to constitute the stock of the said society, not being less than five hundred thousand dollars, it shall be lawful for the said directors, to make a proportional reduction from the number of shares, which, after the passing of this act, shall have been subscribed by any person, copartnership, or body politic, so as to reduce the total amount of the sums subscribed, to the sum by them deemed sufficient as aforesaid, not being less than five hundred thousand dollars; all which subscriptions, made prior to the said first election of directors, shall be payable, one half in the funded six per cent stock of the United States, or in the three per cent stock, at the rate of two dollars of such stock, for one; and the other half, in what is commonly called deferred stock, or, at the option of the party subscribing, such subscrip- tions may be paid for in specie, computing the said six per cent stock at par, and the said deferred stock, according to the pre- sent value thereof at the time of payment, which value shall be determined by a calculation founded upon a rate of interest of six per centum per annum, during the period for which the payment of interest upon the said deferred stock is suspended; and the payments for such subscriptions, as shall be made prior to the first election of directors, shall be made in four equal parts, that is to say, the first within forty-five days after the period of such first election, the second within six calendar months after the time of*

the first, the third within six calendar months after the time of the second, and the fourth within six calendar months after the time of the third payment, and such subscriptions as shall be made, after the said first election of directors, shall be payable according to such regulations, as shall have been previously prescribed by the directors of the society, for the time being; *Provided*, That nothing herein contained shall prevent any subscribing party from paying, with consent of the said directors, the whole amount of his, her, or their subscription at one payment.

1791.

Proviso.

7. *And be it further enacted by the authority aforesaid*, That so much of the capital stock of the said company, as may consist of public debt, shall be placed on the books of the treasury of the United States, in the name of the said corporation, except so much thereof as may be converted into stock of the bank of the United States; and that it shall be lawful for the directors thereof to invest any moneys, which may be received on account of the said capital stock, in the purchase of such debt, and likewise to invest both the said debt, and moneys in stock of the bank of the United States, in the name of the said corporation; and that in either case, the said directors, on the request of any stockholder, shall grant to him a license, to inspect and examine the amount of stock, which may at any time stand in the name of the said corporation, either on the books of the treasury of the United States, or on the books of the bank of the United States.

Stock consisting of public debt, to be placed on the books of the treasury of the United States.

8. *And be it further enacted*, That there shall be a yearly dividend, for the first five years immediately ensuing the last day of December next, and thenceforth a half-yearly dividend, of so much of the profits of the said society, as to the directors thereof shall seem expedient.

Dividend of profits, when to be made.

9. *And be it further enacted by the authority aforesaid*, That the stock of the said society may be invested, secured, assigned, and transferred according to such rules, as shall be instituted in that behalf, by its laws and ordinances.

The stock of the society, how to be invested or transferred.

10. *And be it further enacted by the authority aforesaid*, That there shall be holden an election of directors of the said corporation, on the last Monday of this present month of November, at Trenton, in this state, which election shall begin between the hours of twelve and two in the afternoon of the same day, and may be continued by adjournment, from day to day, for three days, counting the first as one, and may be conducted under the superintendence of any three persons, whom the stockholders, then and there convened, may, by majority of voices, nominate for that purpose; and there shall be holden, on the first Monday of October next ensuing the said time of the said first election, and on the first Monday of each succeeding October, an election for directors of the said society, at such place as shall have been previously appointed for that purpose, by some law or ordinance of the said society; and the directors, chosen at one election, shall be capable of serving, by virtue thereof, until another election shall have been had; and each stockholder shall be entitled to one vote, in person or by attorney, for each share he or she may hold; but neither the United States, nor any state, which

First election of directors.

Succeeding directors, when to be chosen.

1791.	may become a subscriber, shall be entitled to more than one hundred votes.
Number of directors to be chosen.	11. <i>And be it further enacted by the authority aforesaid,</i> That at every such election, thirteen directors shall be chosen by ballot; and the directors, so chosen, shall, at the first meeting after their election, not less than a majority of the whole number being present, elect, from among themselves, one person to be governor, and another to be deputy governor: that any five of the directors, the governor, or deputy governor being one, shall constitute a board for the transaction of business, except as hereafter excepted; but that if it shall at any time happen, that there are two separate meetings, of five or more directors each, but in neither of such meetings a majority of the whole, and the governor be present at one, and the deputy governor at the other, that shall be deemed the legal board, at which the governor shall be present; and that if it shall happen, that the governor and deputy governor, are both absent, seven of the said directors shall constitute a board for the purpose aforesaid: that no director shall receive any emolument on account of his office, unless the same shall have been allowed by the stockholders, at a general meeting; but the directors may appoint such officers, and assign such compensations as they shall think fit, not less than a majority of the whole number of directors being present, when the same shall be done.
May appoint officers, and assign compensations.	
Times of stated meetings of the directors.	12. <i>And be it further enacted by the authority aforesaid,</i> That there shall be a stated meeting of the directors of the said society at the place, which shall have been chosen and designated as the principal seat of the manufactories, to be carried on by the said society, on the first Tuesday in the months of January, April, July, and October, annually; but the governor, or in his absence, or inability, the deputy governor, or in case of their refusal, any three of the directors may, from time to time, by writing under his or their hands, directed to the other directors, and left at their respective places of abode, at least fourteen days prior to the time of meeting, or by advertisements, printed in one public gazette of this state, and in one of the public gazettes printed in the cities of Philadelphia and New-York, respectively, thirty days prior to the time of meeting, convene special meetings of the directors, for the transaction of business, and the directors at such stated or special meetings, shall have power to make all by-laws, ordinances, rules, and regulations, requisite for conducting the affairs of the corporation, and to transact such other business, as may be necessary, touching the same. <i>Provided,</i> That no by-law shall be made or altered, nor any new manufactory undertaken by any board of directors, at which less than a majority of the whole number shall be present; <i>And provided further,</i> That the stockholders, lawfully convened at any general meeting, may alter or abolish any by-laws, rules, or regulations, which may have been made by the directors, and may make and establish such by-laws, rules and regulations, as to them shall seem meet; and that no by-law, rule, or regulation, which may have been abolished by the stockholders, at any
Special meetings how to be obtained.	
Power to make by-laws at such meetings.	
The power to make by-laws by the board of directors, how restricted.	

general meeting, can be re-established by the directors; and further, that no by-law, rule, or regulation, which may have been ordained by the said stockholders, at a general meeting, can be altered or repealed by the directors.

1791.

13. *And be it further enacted by the authority aforesaid,* That any board of directors shall have power to call a general meeting of the stockholders, giving thirty days previous notice thereof, in three public gazettes, one printed in this state, and one in each of the cities of Philadelphia and New-York respectively; and that each stockholder, being present at any general meeting in person, or by attorney, shall be entitled, in all questions and cases whatsoever, to one vote for each share such stockholder may hold.

Directors may call a general meeting of stockholders, who may vote in person, or by attorney.

14. *And be it further enacted by the authority aforesaid,* That every treasurer or cashier of the said corporation, shall, before he enters on the duties of his office, give sufficient security to the satisfaction of the directors, in a sum not less than twenty thousand dollars.

Cashier to give security.

15. *And be it further enacted by the authority aforesaid,* That at every annual meeting of the stockholders, for the purpose of choosing directors, the directors shall lay before them a general state of the affairs of the company, exhibiting the amount of its stock, debts, and credits, the different kinds of manufactures carried on, the number of persons employed in each, and their respective compensations, and an account of the profit and loss. And that the stockholders may, if they think fit, at any general meeting, elect, by ballot, any five of their number, for the purpose of examining into the state of the affairs of the said company, who shall have a right of access and examination, to, and of all the books of the said company; and the said persons or a majority of them may, at any time, call a general meeting of the stockholders, giving the like notice, as is above directed to be given by a board of directors for the like purpose. And that the United States, or any state which shall subscribe for not less than one hundred shares, may appoint a commissioner, who shall have a right at all times to inspect the proceedings of the corporation, and the state of its affairs, but without any authority to control; and such commissioner shall have the like right of access and examination, as is herein before assigned to the five persons, who may be appointed by the stockholders.

At annual meeting of stockholders, directors to lay before them a state of affairs of the company.

Stockholders may, at a general meeting, appoint examiners.

Their duty.

United States, or any state may appoint a commissioner.

His duty.

16. *And be it further enacted by the authority aforesaid,* That the said corporation may be dissolved at a general meeting, specially summoned for that purpose, provided at least three fourths in value of the stockholders shall be present, or represented therein; and upon such dissolution, the directors for the time being, and the survivors and survivor of them, shall be ipso facto trustees for settling all the affairs of the said corporation, disposing of its effects, recovering and paying its debts, and dividing the surplus among the stockholders, in proportion to their respective interest in the stock, unless the stockholders, at such general meeting, shall appoint other persons, not less than nine

In what manner the corporation may be dissolved.

1791.

Lands may be surveyed, rivers cleared, and navigable canals cut.

nor more than thirteen in number, for such purpose, in which case the persons so appointed, and the survivors and survivor of them, shall be trustees and trustee for the purpose aforesaid.

17. *And whereas* it may be necessary for the beneficial extension of the aforesaid plan, to cut canals, and clear and improve the channels of rivers, the advantages of which will not be confined to the members of the said society, who ought therefore to be authorized to receive a reasonable toll to defray the expenses of improvements ultimately so valuable to the state; *Be it enacted*, That it shall be lawful for the directors of the said society, their engineers, artists, and laborers, to enter upon and survey all such land, and land covered with water, as shall appear to them most practicable and convenient for effecting navigable canals, for the purpose of transporting goods, wares, and merchandises, to and from some manufactory by them established, and also such parts of such rivers, and other waters, as they may propose to open and clear, doing as little damage to the grounds and enclosures as shall be possible; and thereupon shall certify to the governor of this state, in writing, as well the courses and distances of any such canal as they may propose to cut, and of the part of any such river, as they may propose to clear and open, as the width and probable depth thereof, and shall transmit, with such certificate, a draught or plan of such intended canal, or of the part of such river, so intended to be cleared or opened; and in like manner shall certify to the said governor from time to time, such alterations in the intended course of such canal, as the quality of the ground or other causes may occasion; whereupon it shall be lawful for them, their engineers, artists, and laborers, to enter upon all such land and land covered with water, as shall be necessary for effecting such navigable canals, or canals, or for opening or clearing such river or rivers, and to contract and agree with the owners of any lands and tenements for the purchase of so much thereof, as shall be necessary for the purpose of making, digging, and perfecting such canal or canals, or opening and clearing such river or rivers, and of erecting and establishing all the necessary locks, works, and devices to such navigation belonging, if they can agree with such owners; but in case of disagreement, or in case the owner thereof shall be feme covert, under age, non compos mentis, or out of the state, then it shall and may be lawful to and for the said directors, to apply to two of the justices of the supreme court of this state, who, upon such application, are hereby authorized and empowered, enjoined and required, to frame and issue one or more writ or writs, as occasion shall require, in the nature of writ ad quod damnum, to be directed to the sheriff of the county, in which such lands and tenements shall be, commanding him, that, by the oaths and affirmations of twelve good and lawful men of his bailiwick, who shall be indifferent to the parties, he shall inquire, whether the person or persons, owning any lands and tenements, necessary to be used by the said directors, which may be injured in establishing the said canal or canals, in opening or clearing such river or rivers, which person or pe

1791.

sons shall be named, and which lands and tenements shall be described in such writ or writs, will suffer and sustain, and what damages, by reason or means of taking any lands, tenements, mill, mill-pond, water, water course, or other real hereditament, necessary for the use of any such canal, or for the opening of the navigation of any such river, and the locks and works thereto belonging; and to return the same writ, together with the finding of the said jury, to the next supreme court of this state, after such finding; and upon such writ being delivered to the said sheriff, he shall give at least twenty days notice in writing, to all and every the owners of the lands and tenements in the said writ described, or to so many of them as can be found, or to the agent or agents of such owners, of the time of executing the same, and shall cause to come upon the premises, at the time appointed, twelve good and lawful men of his bailiwick, who shall be selected in such manner, as struck juries usually are, to whom he shall administer an oath or affirmation, that they will diligently inquire concerning the matters and things, in the said writ specified, and a true verdict give, according to the best of their skill and judgment, without favor or partiality; and thereupon the said sheriff and inquest shall proceed to view all and every the lands and tenements in such writ specified, and having considered the quantity of land, and land covered with water, mills, buildings, or other improvements, that shall be necessary to be vested in the said company, for the purposes aforesaid, and any water course then existing, the use whereof will be necessary for the purposes aforesaid, they shall cause the same to be minutely and exactly described by metes and bounds, or other particular descriptions, and shall value or appraise the injury or damages, if any, which the owner or owners of the said lands, tenements, mills, water, water courses, buildings or improvements, will, according to their best skill and judgment, sustain and suffer, by means of so much of the said lands and tenements being vested in the said company, or by means of such improvements being destroyed or rendered useless, or of less value, or by means of the said company being permitted to turn such water to fill their canal and locks, or by means of said company being permitted to enlarge any mill-pond, mill-race, or other water course, and to use the same as, and for part of such canal and navigation, or by any other means whatsoever, defining and ascertaining as well all such lands and tenements, liberties and privileges, so to be vested in the said company, as the several sums, at which the said injuries and damages shall be so assessed; and the said sheriff and jury shall make an inquisition, under their hands and seals, distinctly and plainly setting forth all the matters and things aforesaid; and the sheriff shall forthwith return the same, together with the said writ, to the office of the supreme court, and at the first supreme court, which shall be held next after the return of any such writ, the justices of the said court shall examine the same; and if the said writ shall appear to have been duly executed, and the return thereof be sufficiently certain to ascertain the lands and tenements, rights, liberties, and privileges, intended to be vested in the said company, and the

1791.

several compensations awarded to the owners thereof, then the said court shall enter judgment, that the said company, paying to the several owners as aforesaid, the several sums of money in the said inquisition assessed, or bringing the same into the said court over and besides the costs of such writ, and of executing and returning the same, shall be entitled to have and to hold, to them, and their successors, and assigns, for ever, all and every the lands, tenements, rights, liberties, and privileges, in the said inquisition described, as fully and effectually, as if the same had been granted to them by the respective owners thereof; and if any return, so to be made, shall not be sufficiently certain for the purposes aforesaid, the said court shall award an inquisition, de novo; and upon payment or bringing into court all such moneys, as by such judgment shall be required to be paid or brought into court, all such lands, tenements, rights, liberties and privileges, shall be fully and absolutely vested in the said corporation, which shall become seized and possessed thereof in like manner, as the then late owner or owners was or were seized or possessed thereof. *Provided always*, That no greater quantity of land shall be in such writ directed to be set out, or shall be set out by any such jury, than shall be sufficient for such canal and navigation, and to leave on each side of any canal intended to be cut, or water intended to be rendered navigable, a space or distance not exceeding two hundred and fifty feet, for the better maintaining and repairing of such canal and the locks, or other works and buildings, which it shall be necessary to erect and maintain, for the purpose of such canal, or other navigable water.

When fords are to be made, and bridges built at the expense of the corporation.

18. *And be it further enacted by the authority aforesaid*, That wherever such canal shall cross any public or private laid out road or highway, or shall divide the ground of any person into two parts, so as to require a ford or bridge to cross the same, the jury, who shall inquire of the damages to be sustained, in manner herein directed, shall find and ascertain whether a passage across the same shall be admitted and maintained by a ford, or by a bridge, and on such finding, the said directors shall cause a ford to be rendered practicable, or a bridge fit for the passage of carts and waggons to be built, and for ever thereafter maintained and kept in repair, at all and every the places so ascertained by the said jury, at the cost and charges of the said company: but nothing herein contained shall prevent any person from erecting and keeping in repair, any foot or other bridge across the said canal, at his own expense, where the same shall pass through his ground; *Provided* the same shall be of such height above the water, as shall be usual in the bridges erected by the company: *And provided also*, That such foot or other bridges, so to be erected by the owners of such land, shall not interfere with any of the locks, buildings, or other works of the company.

In what manner the directors and their agents may enter on lands contiguous to a river or intended canal.

19. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for the said directors, their engineers, artists, and laborers, with carts, waggons, wains, and other carriages, with their beasts of draught and burden, and all necessary tools and implements, to enter upon the lands con-

1791.

tiguous, or near to the said track of such intended canal or canals, or to such parts of any river or other water, as they may propose to clear, and render fit for navigation; and also, to take and carry away any stone, gravel, sand, or earth there being most conveniently situate, for making, repairing, or improving such canal or navigation, and the same to use in carrying on the said work, first giving notice of their intention, to the owners of such lands, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be sustained by the owners of such ground, according to a reasonable agreement with the owners, if they can agree, or if they cannot agree, then according to an appraisement to be made, upon the oath or affirmation of three, or if they disagree, any two indifferent freeholders, to be mutually chosen, or if the owners neglect or refuse to join in the choice, then according to an appraisement to be made, upon the oath or affirmation of twelve good and lawful men of the bailiwick, to be summoned, sworn, and empanelled, by virtue of a warrant from any one justice of the supreme court of the state, or any one justice of the peace in and for the county, in which such lands may lie, who, at the request of the said society, or their lawful agent, is authorized and required, to issue his warrant to the sheriff of the said county, commanding him that, by the oaths of twelve good and lawful men of his bailiwick, he make the said appraisement, and return the same forthwith, under their hands and seals to the said justice.

Damages, how to be ascertained.

20. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said directors, so soon as any mill, canal or any part thereof shall be perfected, or any river shall be rendered navigable, in any part where the same was not before navigable, to appoint such and so many collectors of tolls, for the passage of boats and vessels, in, through, and along the same, and at such places as they shall think proper; and that it shall and may be lawful to and for such toll collectors, and their deputies, to demand and receive of and from the persons having the charge of all boats and vessels, and rafts of timber, boards, plank or scantling, passing through such canal, and the part of such river rendered navigable, and the locks thereto belonging, such tolls and rates, for every ton weight of the ascertained burden of the said boats and vessels, and for every hundred feet cubic measure of timber, and twelve hundred feet board measure of boards, plank or scantling, in rafts, as the said directors shall think proper; *Provided,* That the whole amount of such tolls and rates, in one year, shall not exceed fifteen per centum on the sums expended in making and establishing such canal, or in opening and clearing such river, over and above the expenses of maintaining and repairing the same, together with the necessary works, and of collecting the said tolls and rates.

Collectors of toll to be appointed, and rate of toll to be fixed.

But the amount of such tolls not to exceed 16 per cent on the sum expended.

21. *And in order to ascertain the tonnage of boats using the said canal navigation, and to prevent disputes between the supercargoes or skippers, and collectors of tolls, concerning the same; Be it further enacted by the authority aforesaid,* That upon the

Tonnage of boats how to be ascertained; and their toll, when to be paid.

1791.

request of the owner, skipper or supercargo, of such boat or raft, or of the collector of the said tolls, at any lock or place, upon any such canal or water rendered navigable, it shall and may be lawful for each of them to choose one skilful person to measure and ascertain the number of tons, which the said boat or vessel is capable of carrying, and to mark the same in figures, upon the head and stern of the said boat, in colors mixed with oil, and that the said boat or vessel so measured and marked, shall always be permitted to pass through such canal or water rendered navigable, and locks, for the price per ton, to which the number of tons so marked on her shall amount, agreeably to the rates fixed in the manner aforesaid; and if the owner, skipper, or supercargo, of such boat or vessel shall decline choosing a person, resident within four miles of the place where such toll is payable, to ascertain the tonnage thereof, then the amount of such tonnage shall be fixed and ascertained by the person appointed for that purpose by the said directors, or chosen by the said collector of tolls for the said company, and the toll shall be paid according to such measurement, before any such boat or vessel shall be permitted to pass the lock or place, where such toll shall be made payable by the said company.

For any injury done to a canal or lock, fourfold damages shall be recovered.

22. *And be it further enacted by the authority aforesaid, That* if any person or persons whomsoever shall wilfully and knowingly do any act or thing whatsoever, whereby such canal or navigation, or any lock, gate, engine, machine, or device thereto belonging, shall be injured or damaged, he or they, so offending, shall forfeit and pay to the said company, fourfold the costs and damages so sustained by means of such known and wilful act, together with costs of suit in that behalf expended, to be recovered by action of debt, in any court having jurisdiction competent to the sum due.

Collectors may stop boats until toll be paid, or distrain part of the cargo.

23. *And be it further enacted by the authority aforesaid, That* the collectors of tolls, duly appointed and authorized by the said directors, may stop and detain all boats and vessels, using the said canal and navigation, until the owner, skipper, or supercargo of the same shall pay the tolls, so as aforesaid fixed, or may distrain part of the cargo therein contained, sufficient, by the appraisement of two credible persons, to satisfy the same; which distress shall be kept by the collector of the tolls, taking the same, for the space of five days, and afterwards be sold by public auction, at the most public place in the neighborhood, to the highest bidder, in the same manner and form, as goods distrained for rent are by law sold, and saleable, rendering the surplus, if any there be, after payment of the said tolls and the costs of distress and sale, to the owner or owners thereof.

Directors to make return to the legislature, triennially, of the sums expended in erecting canals, and rendering waters navigable.

24. *And be it further enacted by the authority aforesaid, That* the said directors shall, at the expiration of every third year, from the date of their incorporation, lay before the legislature of this state, an abstract of their accounts, touching such canals and waters rendered navigable, shewing the whole amount of the capital expended in purchasing real estates, and in digging, erecting, and establishing the whole of such canals, locks and works,

and in rendering such waters navigable, and the whole income and profits arising from the said tolls, for and during the said periods, together with the exact amount of the contingent charges of supporting, maintaining, and keeping the same in repair, for the said periods, to the end, that the clear annual profits may be known; and if at the end of any such period, it shall appear from such abstract, that the clear profits and income of the said company, as touching the said canals and waters rendered navigable, will bear a dividend of more than fifteen per centum per annum, as above limited, then and in such case, the said tolls shall be reduced so much as will reduce the said clear profits and income to a dividend, not exceeding the said rate of fifteen per centum per annum; and the surplus, which may have at any time accrued, shall be paid to the order of the legislature of this state, to be applied in their discretion to the encouragement of literature, arts and sciences, within this state.

1791.

25. *And whereas* the first attempts towards the establishment of manufactories by the said society, may be attended with loss, so as to impair and diminish the capital thereof, and the said society have prayed that this legislature would authorize them to raise by lottery certain sums for their indemnification against such losses; in compliance with the said request, and for the further encouragement of the said establishment; *Be it enacted by the authority aforesaid*, That the said society be, and they are hereby authorized and empowered, by one or more lotteries, to be drawn within this state, according to such scheme or schemes, and upon such terms as the directors of the said society shall institute, publish and declare, and under the management of such persons, as the said directors shall for that purpose appoint, to raise for the benefit of the said society a sum or sums not exceeding in the whole, one hundred thousand dollars, over and above such charges and expenses, as shall have been incurred in and about the management and drawing of the said lottery or lotteries.

The society authorized to raise, by lottery, 100,000 dollars.

26. *And whereas* it is deemed important to the success of the undertaking aforesaid, that provision should be made for incorporating, with the consent of the inhabitants, such district not exceeding in content the number of acres contained within six miles square, as may become the principal seat of the intended establishment; *Be it further enacted by the authority aforesaid*, That at any time after the directors of the said society shall have made choice of a suitable place, for the principal seat of their said manufactories, and shall have certified the same to the governor of this state, for the time being, it shall be lawful for the said directors, by advertisement, in one or more of the public gazettes, printed in this state, and also by advertisements affixed in the most public and notorious place within such district, to give notice, that it appears to them conducive to the interest of the said society, if agreeable to the inhabitants of the said district, that the said inhabitants should be and become a body politic and corporate, and if within sixty days after such public notification, a majority of the taxable inhabitants of the said district,

Inhabitants within a district, not exceeding six miles square, may be incorporated.

1791.

Name and title.

The corporation may hold goods and lands, may sue and be sued, may use a common seal, and make by-laws.

An enumeration of the taxable inhabitants to be taken, if any of them signify their dissent to being incorporated.

Mayor, recorder, aldermen, assistants and town-clerk to be appointed by the legislature, and amenable to the same.

What officers shall be elected, and when, by the inhabitants of the town, and their duration in office.

shall not express their dissent from the incorporation of the said district in writing, signed with their names, addressed and delivered to the governor of this state, it shall be deemed and taken to be evidence of the assent of the said inhabitants to be, and they shall thereupon be created and become a body corporate and politic, in deed and law, by the name and title of, "The Corporation of the Town of Paterson," to have perpetual succession; and they and their successors shall at all times be able and capable in law to have, hold and enjoy, any lands, tenements, and hereditaments, goods and chattels, of whatsoever kind or quality, and the same to sell, grant, alien, and dispose of; to sue and be sued, implead and be impleaded, in courts of justice, or any place whatsoever; to make and use a common seal, and the same to alter and renew at pleasure; and also in manner hereafter mentioned, to ordain, establish, and put in execution, all necessary and convenient by-laws, ordinances and regulations; *Provided* the same are not contrary to the laws and constitution of the United States, or of this state.

27. *And be it further enacted by the authority aforesaid*, That if any number of the said taxable inhabitants shall signify their dissent in manner aforesaid, and if the said society shall controvert the same, being a majority of the said taxable inhabitants of the said district, it shall be lawful for the governor of this state, upon application made to him, by the said society in that behalf, to issue a writ to the sheriff of the county in which the major part of such district shall be, commanding him to make, or cause to be made, an enumeration of the taxable inhabitants of the said district, and to return the same within a certain time to be expressed therein, not more than three, nor less than one calendar month, after the teste of the said writ, and the same writ to renew in case of default, until the said enumeration shall be duly made and returned; and if, upon such enumeration, it shall appear that the number of persons who have signified their dissent are less than a majority of the whole number of the taxable inhabitants, then the dissent so signified shall be void and of no effect.

28. *And be it further enacted by the authority aforesaid*, That for the well ordering of the affairs of the said corporation, there shall be a mayor, recorder, twelve aldermen, and twelve assistants, and town-clerk, who shall be appointed by the council and general assembly of this state, in joint-meeting, and commissioned by the governor of this state, in the same manner as the judges and justices of the peace, and clerks of the inferior courts of common pleas, and quarter-sessions of the peace throughout the state, are appointed and commissioned, and shall be in like manner amenable to the council and general assembly; and all other officers and ministers of the said town, whose appointments are not herein otherwise provided for and prescribed, shall be chosen by the inhabitants of the said town, at their annual town-meetings, which shall be held at the same time, that the annual town meetings, in the other townships in the county, shall by law be held; that the sheriff and coroner, being elected by the said inhabitants, freeholders within the said town, and commissioned by

1791.

the said governor, upon a certificate of their election, signified by the mayor or recorder, with any three or more of the aldermen, and being so commissioned, shall or may continue in office, one year thereafter, and shall be vested with all the power and authority during said year, and entitled to all the privileges respectively within the said town, and subject to all the penalties for neglect of duty, which the sheriffs and coroners, in the several counties within this state, are vested with, entitled or subject to, in like cases and circumstances, and shall be subject to such further penalties for neglect of duty, as he or they may be subjected to by the by-laws made and passed by the corporation of the said town, and shall give security for the due performance of their respective offices, in like manner; and the assessors, collectors, and overseers of the poor, so chosen as aforesaid, shall be vested with all the powers and authorities, and entitled to all the privileges, within the said town respectively, and be subject to all the penalties for neglect of duty, which the like officers in the several townships of this state are vested with, entitled or subject to, in like cases and circumstances; and also that the said mayor, recorder, aldermen, and assistants, in common council assembled, shall and may, from time to time, elect, nominate, and appoint, constables, and such other subordinate officers of the town aforesaid, not herein named, as they or the greater number of them, the mayor or recorder being one, shall think necessary, for the better ordering and governing the said town; which officers, so appointed, shall continue in office, until others shall be appointed to succeed them, and be sworn or affirmed into office. *Provided always*, That the several officers appointed pursuant to the directions of this act, before they severally take upon them the execution of their respective offices, shall take and subscribe the oath or affirmation of allegiance to this state, and also take the oath or affirmation of office.

Common council to elect constables and subordinate officers.

Town officers to take the oath of allegiance and of office.

29. *And be it further enacted by the authority aforesaid*, That the said town-clerk, who shall be called clerk of the town of Paterson, and his successors for ever, shall act and do all things within the town aforesaid, which any town-clerk of and in any borough or town-corporate, by virtue of his office, can or ought to do: that the clerk of the said town, for the time being, shall also be clerk of the said court of common pleas, to be held as aforesaid, and also clerk of the peace, and of the sessions of the peace, for and in the said town, and all and singular those things, which to the office and offices of such clerk do, and shall appertain, to do, execute and perform; and also shall and may require, demand, take, accept, hold, keep, and enjoy, all fees, perquisites and profits, which to any clerk of the peace and sessions of the peace, or to any clerk of any court of common pleas, in any county of this state, do or ought to belong: that the said town-clerk and his successors, clerk as aforesaid, upon their appointment, shall take the oath or affirmation of allegiance to the state, and also the usual and legal oath or affirmation of office, before the mayor or recorder of the said town, for the time being, either of whom is hereby authorized to qualify into office as

Town-clerk to be clerk of the peace, and of the courts of quarter-sessions, and common pleas.

1791.

The said clerk to administer the oath of allegiance and of office to all persons who shall be elected into office for the town.

Vacancy in the office of mayor or recorder, how to be supplied.

The common council may make by-laws, impose fines, and the same mitigate or release.

What number requisite to constitute a board for certain purposes.

The mayor, recorder, aldermen, and assistants, created justices of the peace.

aforesaid such clerk of the said town; that the said clerk, for the time being, shall be, and hereby is authorized and empowered, to administer the oath or affirmation of allegiance aforesaid, and also the usual and legal oaths or affirmations of office, to the mayor, recorder, aldermen, assistants, sheriff, coroner, and all, and every other officer and minister, who shall be appointed or elected to serve in and for the said town; but in case the said clerk shall be absent, dead, or removed, the said mayor or recorder shall and may administer the oaths or affirmations aforesaid, to all such officers, when duly elected, or appointed, and report the same to the said clerk, or his successor, to be enrolled.

30. *And be it enacted by the authority aforesaid,* That in case of a vacancy in the offices of mayor and recorder, by death, resignation, or removal, or otherwise, during the recess of the legislature, that in such case, the governor of this state, for the time being, is hereby authorized to supply such vacancies, and commission them accordingly: which said commissions shall continue in force, till the legislature of this state, at a joint-meeting, shall appoint persons to fill said offices, and the said person or persons, so appointed, be duly commissioned and qualified to execute the same.

31. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said mayor, recorder, aldermen, and assistants, to make such by-laws, ordinances, rules and regulations, not inconsistent with the laws and constitution of the United States, or of this state, as to them shall appear necessary and beneficial for the good government of the said district, and the same to put in execution, revoke, alter, and make anew as occasion shall require, and to impose such fines and amercements upon persons transgressing such by-laws, rules and ordinances, as shall appear to them reasonable, to be levied by distress and sale of the goods of the party offending, by warrant under the hand and seal of the said mayor or recorder, or by such other warrant or process, as shall have been prescribed by the laws or ordinances of the said corporation, to be recovered by action, for the use of the inhabitants of the said district; and upon the submission of the parties, the said mayor, recorder, aldermen, and assistants, shall have power to mitigate or release such fines and amercements. *Provided always,* That not less than a majority of the whole number of the said officers, of whom the mayor or recorder to be one, shall be competent to constitute a legal board, or meeting, for the purpose of making or altering any by-law, or ordinance, or of appropriating any of the moneys of the said corporation; and that not less than seven, of whom the mayor or recorder to be one, shall be competent to form a board for any other purpose.

32. *And be it further enacted by the authority aforesaid,* That the said mayor, recorder, aldermen, and assistants, for the time being, shall severally and respectively have all the powers and authorities of justices of the peace, and shall have full power and authority to inquire of, hear, try, and determine, agreeably to the laws and constitution of this state, all larcenies, forgeries

perjuries, assaults and batteries, riots, routs, and unlawful assemblies, and all other offences, which may or shall be committed within the said district, which would otherwise be cognizable in the court of general quarter-sessions of the peace, of the county or counties, wherein such district is situated, and to punish all persons so convicted, agreeably to the laws of this state; and also to inquire of, hear, try, and determine, all offences committed in the said district, against any of the by-laws, rules, and ordinances, made, ordained, and established, in pursuance of this act; and to punish such offenders, as by the said by-laws, rules, and ordinances, shall be directed; and also to impose and levy fines on jurymen and others, according to law; to award process, take recognizances, and commit to prison, as occasion shall require, without being accountable to the state, for any fines or amercements, to be imposed for the said offences, except such as are, or shall by law be made payable into the treasury of this state, for offences against the state; and that they, in their said court of quarter-sessions, shall have the sole, only, and exclusive right and power of licensing all and every inn-keeper, tavern-keeper, and retailer of spirituous liquor, inhabiting within the said town, as to them shall seem convenient, and from them, and every of them, so to be licensed, to require and take recognizance, agreeably to the laws of this state; and every other license for such purpose within the said town, granted by any other court, shall be, and is hereby declared to be null and void; and generally to do all such matters and things, as any court of general quarter-sessions of the peace of and for any county within this state, may or can lawfully do within such county: and for the purposes aforesaid, the said mayor, recorder, aldermen, and assistants, or any seven of them, of whom the mayor or recorder to be one, shall have full power and authority to hold and keep a court of record, within the said district, four times in each year, by the style and title of, "The court of quarter-sessions of the peace of the town of Paterson," for inquiring, hearing, trying, and determining, the pleas and matters aforesaid; and doing all such matters and things, as, in pursuance of this act, shall be cognizable in the said court; which court shall have power to adjourn from day to day, and to hold special sessions, when to the said mayor, recorder, aldermen, and assistants, it shall appear necessary; and all proceedings in the said court, may be removed by writs of error, certiorari, or other writs, in like manner, as the proceedings in any court of general quarter-sessions of the peace of any county in this state, are by law removable.

33. *And be it further enacted by the authority aforesaid, That the said mayor, recorder, aldermen, and assistants, or any seven of them, of whom the mayor or recorder to be one, shall also have full power and authority to hold and keep, on the first Monday in every calendar month, and the same, if need be, to adjourn from day to day, for the term of four days, counting the first as one, one other court of record by the style and title of, "The court of common pleas of the town of Paterson," with power to hold pleas of all such civil actions, suits and controversies,*

1791.

Mode of choosing assistants, and their powers altered: act 27th November, 1792.

The mayor, recorder, aldermen, and assistants, may hold a court of sessions quarterly, and also special courts when necessary.

The mayor, recorder, aldermen, and assistants, may hold a court of common pleas on the first Monday of every month.

1791.

as are cognizable in the several county courts within this state, to summon and empannel juries in the said actions or suits, to give judgment therein, and to carry such judgments into execution, in as full and ample a manner, and by all such ways and means, as any court of common pleas within this state, may or can do; and the proceedings in the said court shall be, as nearly as may be, the same with those of the several courts of common pleas within this state, and may be removed by habeas corpus, writ of error, or other writ, in like manner, as the proceedings in any such court of common pleas are by law removable.

Seal of the court of common pleas.

34. *And be it enacted by the authority aforesaid,* That the said court of common pleas of the town of Paterson shall have a seal, with such device as shall appear to the said court proper, and all writs issuing thereout, shall be under the said seal, and tested in the name of the mayor or recorder of the said corporation.

The court of sessions of the county, not to have jurisdiction within the said town.

35. *And be it further enacted by the authority aforesaid,* That the justices of the court of general quarter-sessions of the peace of the county or counties, in which such district is situated, or any of them, shall not have any power or jurisdiction within the said district, except to compel the attendance of witnesses.

What artificers and manufacturers are exempted from military duty.

36. *And be it further enacted by the authority aforesaid,* That all artificers and manufacturers within the said district, in the immediate service of the said society, shall be exempt from all military duty, except in cases of actual invasion, or imminent danger. *Provided always,* That the clerk of the said town of Paterson shall keep a book, in which he shall enter the names of all artificers and manufacturers, in the immediate service of the said society, at the direction of the said court of general quarter-sessions of the peace, in and for the said town; and that no person shall be exempt from any taxes whatever, or from militia duty, except his name shall be entered in the said book as aforesaid.

This act to be construed favorable for the corporation.

37. *And be it further enacted by the authority aforesaid,* That this act shall, in all things, be construed in the most favorable manner for the said respective corporations, nor shall any non-user of the privileges, hereby to the said corporations respectively granted, create any forfeiture of the same; and notwithstanding the members of the said respective corporations should fail to meet and hold their elections as is hereby specified, the said elections may be afterwards holden and made in such manner, as shall have been prescribed by the laws and ordinances of the said respective corporations, and the officers, for the time being, shall continue to hold and exercise their office until others shall be duly elected to succeed them, at some subsequent meeting.

Nonuser not to create any forfeiture.

This act a public act.

38. *And be it further enacted by the authority aforesaid,* That this act shall be deemed and taken to be a public act, and as such to be taken notice of by all persons and courts of justice whatsoever within this state.

The district which has been selected, by the directors of the society, for the principal seat of their manufactories, lies in the counties of Bergen and Essex. It begins at the mouth of Third River, formerly called Yontekaw, where it empties into the Passaic river; thence north, fifty-one degrees and sixteen minutes west, five hundred and seventy chains, along marked trees, marked with a blaze,

and the lotus P. A. to a stake and stones; thence north, twenty-five degrees east, across Passaick river, above the upper reef of the little falls, fifty chains, to a large chestnut tree, marked as before; thence north, forty-nine degrees east, four hundred and thirty-five chains and twenty-nine links; thence due east, one hundred and forty-four chains; thence south, ten degrees east, four hundred and fifty chains, to near Saddle River bridge; thence south, nineteen degrees west, two hundred and sixty-six chains, thence north, fifty-one degrees and fifteen minutes west, twenty-eight chains, to the place of beginning; and contains thirty-six square miles, equal to six miles square. The inhabitants of the district have been incorporated, pursuant to the 26th and 27th sections of the act.

1792.

See a supplemental act, of the 27th of November, 1792.

AN ACT to repeal an act, entitled "A supplemental act to the act, entitled an act to punish traitors and disaffected persons."

PAT. 116.

Passed the 24th of November, 1791.

AN ACT to incorporate a part of the township of Trenton, in the county of Hunterdon.

PAT. 116.

Passed the 13th of November, 1792.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That such parts of the township of Trenton, as are contained within the following limits and boundaries, that is to say, beginning at the mouth of Assanpink creek, and running up the same to Bernard Hanlon's mill-dam; from thence, along the road, to the line between Trenton and Maidenhead; thence along the said line, to the road leading from Trenton to Maidenhead; thence, on a straight line, to the north-west corner of a lot, late of David Brearly, deceased; thence, on a straight line, to the north-west corner of the land of Lambert Cadwallader, whereon he now lives; thence, down the western line thereof, to the river Delaware; thence, down the same, to the mouth of Assanpink creek aforesaid, being the place of beginning, shall be, and the same is hereby erected into a city, which shall henceforth be distinguished, known, and called, by the name of "The City of Trenton."

Trenton incorporated by the name of the city of Trenton; its boundaries.

2. *And be it further enacted*, That for the better ordering, ruling and governing the said city of Trenton, and the inhabitants thereof, there shall henceforth be in the said city, a mayor, who shall be keeper of the city seal; a recorder, who, besides the office of recorder, shall, in case of the absence, death, or other disability of the mayor, have, hold, use and execute, the several duties annexed to the mayoralty, and every of them, during such absence or other disability; three aldermen, six assistants, and one town-clerk; which mayor, recorder, aldermen, and assistants, shall be one body politic and corporate, in deed, fact, and name, by the name, style, and title of, "The mayor, aldermen, and assistants of the city of Trenton," and, by the same name, shall have perpetual succession; and they and their successors, at all times hereafter, by the name, style, and title of, "The mayor, aldermen, and assistants of the city of Trenton," shall be

Officers of the city.

The mayor, recorder, and assistants to be a body corporate and politic.

Their name.

The corporation may hold lands and other property;

1762.

may sue and be
sued, and use
a common
seal.

Mayor, re-
corder, and al-
dermen, jus-
tices, ex offi-
cio, to be ap-
pointed by
joint meeting,
and commis-
sioned by the
governor.

The six assist-
ants, town-
clerk, assessor,
and collector,
to be chosen
by the people.

The above of-
ficers to take
the oath of al-
legiance and
of office.

The mayor,
recorder, al-
dermen, and
assistants, to
hold a com-
mon council;
to make by-
laws;

to appoint
subordinate
officers;

and to annex
fees and im-
pose fines.

Fines, how to
be recovered.

persons able and capable in law to have, purchase, take, and receive, possess, and enjoy, lands, tenements, hereditaments, liberties, franchises, and jurisdictions, goods, chattels and effects, to them and their successors for ever, or for any other, or less estate; and the same lands, tenements, and hereditaments, goods, chattels, and effects, to grant, bargain, and sell, alien, convey, demise, and dispose of; to sue and be sued, implead and be impleaded, in any court of justice whatever; and to make and use one common seal, and the same to alter and renew at pleasure.

3. *And be it further enacted*, That the said mayor, recorder, and aldermen, shall be justices of the peace *ex officio*, within the said city, and shall be appointed by the council and general assembly of this state, in joint-meeting, and commissioned by the governor of the same, in the same manner, as the judges and justices of the peace, throughout the same are appointed and commissioned, and shall continue in office for the same time, and be amenable in like manner, to the council and general assembly; and that the six assistants, the town-clerk, and assessor, and collector, shall be chosen by the freeholders, and inhabitants of the said city, at their annual town-meeting, which shall be held at the same time, that the annual town-meetings, in the several townships in the county of Hunterdon, are directed by law to be held. *Provided always*, That the said officers, and each and every of them, before they proceed to execute their respective offices, shall take and subscribe the oath or affirmation of allegiance to this state, and likewise an oath or affirmation, that they will faithfully discharge and execute such office, according to the best of their knowledge and understanding.

4. *And be it further enacted*, That the mayor, recorder, aldermen and assistants, or a majority of them, of which the mayor, or recorder is always to be one, shall have full power, from time to time, and at all times hereafter, to hold a common council within the said city, at such convenient place, as the mayor, or in his absence the recorder, shall appoint; and to make such by-laws, ordinances, and regulations, in writing, not inconsistent with the laws and constitution of this state, or of the United States, as to them shall appear necessary, for the good government of the said city, and the inhabitants thereof, and the same to put in execution, revoke, alter, and make anew, as to them shall appear necessary and convenient; and to appoint a city treasurer, city marshal, clerk of the market, and such other subordinate officers, as they may think necessary, for the good government of the said city, and by ordinance, to require such securities from the several officers, and to annex such fees to the several offices of the corporation, and to impose such fines for the refusal of office, or neglect of duty, or misconduct in the same, as to them shall appear necessary; and to make, limit, impose, and tax, reasonable fines and amercements against all, and upon all persons, who shall offend against the laws, ordinances and regulations of the corporation, made as aforesaid, and all, and every such fines and amercements, to take, demand, require, and levy of the goods and chattels of such offender, by warrant issued under the hand

and seal of the mayor, recorder, or either of the aldermen, directed to the marshal of the said city, who is hereby required and authorized to execute the same; which fines and amercements shall be paid to the city treasurer, to be appropriated to the use and benefit of the inhabitants thereof. *Provided always*, That every person, who may think him, or herself aggrieved by the decision of the said mayor, or recorder, or any single alderman, may appeal to the common council, who are hereby required to hear his or her cause of complaint, and to do therein, what unto them shall appear just and equitable.

1792.

Party aggrieved by the decision of the mayor, recorder, or an alderman, may appeal to the common council.

5. *And be it further enacted*, That the said mayor, recorder, aldermen, and assistants, or a majority of them, in common council met as aforesaid, shall have the sole, only and exclusive right and power, of licensing all and every inn-keeper, tavern-keeper, and retailer of spirituous liquors, residing within the said city, subject to the same provisions, and in like manner, as the same may be lawfully done by the courts of general quarter-sessions of the peace, in this state.

The common council to have the exclusive power of licensing taverns in the city.

6. *And be it further enacted by the authority aforesaid*, That in case a vacancy shall happen in the office of mayor and recorder of the said city, by death, resignation, removal or otherwise, in such case, the aldermen shall meet together, and by plurality of voices, choose one of their number, who shall have and execute the duties annexed to the mayoralty, until a mayor and recorder shall be appointed and commissioned according to law, and that as soon as may be convenient, after the passing of the said law, and when by death, removal or otherwise, any vacancy or vacancies shall happen in any of the offices herein rendered vacant by the freeholders and inhabitants of the said city, the mayor for the time being, is hereby required and directed, by advertisements or otherwise, giving at least five days notice, to call a meeting of the freeholders and inhabitants of the said city, who, when assembled, are hereby authorized, by plurality of voices, to elect such and so many fit persons, as are necessary to fill up the offices, and supply such vacancy or vacancies; which officers, so elected, shall be sworn in the manner aforesaid, and shall continue in office until the next annual election.

Vacancy in the office of mayor or recorder, how to be supplied.

Vacancy in any of the offices elected by the people, how supplied.

7. *And be it further enacted*, That the freeholders and inhabitants of the said city of Trenton, at their annual town-meeting, shall vote such sum or sums of money, as they may think necessary to be raised, for the ensuing year, for the exigencies of the said city; which sum shall be assessed upon the inhabitants by the assessor, agreeably to the laws and regulations to be made by the common council of the said city for that purpose, and collected by the collectors at such time, and be paid and disposed of in such manner, as the common council shall direct; and if no sum, or an insufficient sum, shall then be voted to be raised, and the interest of the city require it, the common council are hereby authorized to call a meeting of the freeholders and inhabitants, by advertisement or otherwise, giving at least five days notice, and to propose to them the sum, in their opinion, necessary to be raised, and whatever sum the freeholders and in-

Moneys, how to be raised, assessed, and collected.

1792.

Appeal from
assessments
granted to the
common
council.

habitants shall, by plurality of voices, vote to be raised, shall be assessed and collected, paid and disposed of in manner aforesaid. *Provided always*, That if any person shall think him or herself aggrieved by any assessment, made as herein before directed, he or she may appeal to the common council, who are hereby authorized and required to hear such complaint, and redress the grievance, if any shall be made to appear.

8. Repealed by an act supplementary, &c., 22d Nov. 1808.

See supplement 28th January, 1817.

PAT. 118.

AN ACT to divide the township of Hardyston in the county of Sussex.

Passed the 19th of November, 1792.

Preamble.

WHEREAS a number of the inhabitants of the township of Hardyston, in the county of Sussex, have, by their petition, set forth, that they have long labored under many and great difficulties, by reason of the great length of the said township; for remedy WHEREOF—

Hardyston
divided; a new
township set
off; its bound-
aries and
name.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Hardyston, lying northward of the following line, to wit, beginning at a tree standing on the east side of the road leading from Jesse Ford's house to Peponcotton bridge, being a corner of Hardyston and Wantage; and running from thence on a due course to a bridge over a branch of Pequonnock river, being on colonel John Seward's old farm; from thence continuing the same course until it intersects the line of the county of Bergen; shall be, and is hereby set off from the township of Hardyston, and made a separate township, to be called by the name of, "The Township of Vernon."

PAT. 119

AN ACT to enable the owners of swamp or meadow ground to drain the same, and to repeal a law heretofore made for that purpose.

Passed the 24th of November, 1792.

Surveyors of
the highways
and chosen
freeholders of
the township
empowered,
on applica-
tion, to view
the land, to
lay out ditches,
drains, and
water courses,
and to cause a
survey thereof
to be made.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act it shall and may be lawful for any person or persons, who may have any meadow, or land improved, or capable of being improved into meadow, lying or being so situated as that it cannot be drained sufficiently for the effectual improvement of the same, without clearing out creeks or natural water courses, or cutting into or through the meadows or other lands belonging to, or in possession of, such person or persons, as will not join in cutting, clearing creeks, or natural water courses, or permit a sufficient ditch or drain to be

1792.

cut and kept open into or through the same, to apply to the two surveyors of the highways, and the two chosen freeholders of the township, in which the land doth lie, who are hereby directed and required, upon ten days notice given for that purpose, as well to the person through whose land or possession the said ditch is proposed to be cut, or creek or natural water-course cleared, as to the surveyors and freeholders, particularly specifying the time and place of meeting, to view the premises; when they, or a majority of them, in case the ditch or drain, or clearing the creek or water-course applied for shall appear necessary and reasonable, shall lay out such ditch, drain or water-course, as in their judgment shall be sufficient for the purpose, and in such place or places as will be most proper for draining the said meadow or land, with as little detriment, however, as may be to the owner or possessor of the premises, through which the said ditch, drain or water-course may run or be laid; causing a proper return of such ditch, drain or water-course to be made, describing the beginning and several courses and distances thereof, from an actual survey made by a surveyor, and signed by him, and the aforesaid surveyors of the road, and freeholders; which actual survey shall be recorded in the clerk's office of the county, who shall be entitled to receive three shillings for the same, and the record thereof may be given in evidence in any court of law; the expenses thereof to be paid by the owners or possessors, in proportion to the benefit they may receive thereby.

Such survey to be recorded in the clerk's office.

Expenses, how to be defrayed.

And be it further enacted, That in case any or either of the surveyors or freeholders aforesaid should be interested, either for or against the water-course applied for, application shall be made to any other surveyor or freeholder of the same county, chosen as aforesaid, being disinterested and living nearest to the premises; who is and are hereby directed and required, upon notice as aforesaid, to attend in the room and stead of him or them so interested, and to do and perform the same duties, as if he or they resided in the township where the ditch or drain, or clearing of a creek or water-course, shall be applied for.

If any surveyor or freeholder be interested, application to be made to another of the same county, nearest to the premises.

3. And be it further enacted, That whenever any such creek, ditch, drain or natural water-course, is necessary for the improvement of lands as aforesaid, shall happen to be in or on a line between two townships, or leading out of one township into another, it shall and may be lawful for the person or persons applying, and he, she or they is, and are hereby required to call the surveyors of the highways and chosen freeholders of both the said townships, who, when met, or a majority of them, shall proceed in the same manner as is before directed for the chosen freeholders and surveyors of the highways of a township to proceed; and the decree of them, or a majority of them, shall be equally binding upon all parties. *Provided always*, That nothing contained in this act shall empower the surveyors and freeholders aforesaid, to lay any water-course through a mill-dam or other works, erected for the accommodation of a mill or the manufacturing of iron.

When water-courses are, in two townships, the surveyors and freeholders of both to be called.

But this act not to affect mill-dams or iron-works, &c.

1792.

Fees of surveyors and freeholders, and by whom to be paid.

Penalty for their neglect of duty.

Damages, which owners of land may sustain, to be assessed by the surveyors and freeholders.

Surveyors and freeholders to allot to each person his part of the ditch, drain, or water-course.

How and when the same is to be opened and cleared out.

The earth between different proprietors, where to be thrown.

Dams, sluices, and other works, how to be made, and kept in repair.

4. *And be it further enacted*, That there shall be allowed to the surveyors and freeholders, for the time they may respectively be employed in performing the duties enjoined them by this act, the sum of seven shillings and six pence a day each, to be paid by the person or persons requesting such service; and in case either of the surveyors or freeholders, appointed for laying out or clearing the ditches, drains, creeks or water-courses herein before mentioned, shall neglect or refuse to do and perform the duties enjoined him by this act, he, so offending, shall forfeit and pay, for every such neglect or refusal, the sum of three pounds, to be recovered in an action of debt, by the party applying, to and for his use.

5. *And be it further enacted*, That in all cases where ditches or drains shall be laid into or through the land of any person or persons, not benefited by, or requesting such ditch or drain, or clearing a water-course, that the surveyors and freeholders, laying out the same, shall be, and they hereby are, required to assess the damage, the owner or owners of land damaged may sustain thereby, and also the quota each person shall bear, who shall be benefited thereby; which assessment or quota shall become a legal debt, and be immediately paid by each person, so assessed, to the person or persons injured.

6. *And be it further enacted*, That the said surveyors and freeholders, who shall concur in laying out any ditches or drains, or clearing water-courses as aforesaid, shall, at the same time, allot to each person interested therein, the part or parts thereof, he or she shall clear, make, support and keep open, which part or parts, so allotted, her or his heirs or assigns shall for ever thereafter be empowered and obliged to make, open and clear out, such ditch, drain or water-course, from time to time, between the first day of September and the first day of May, annually, whenever the same may be necessary; and if any person or persons, owners of land and meadow, directed to be drained as aforesaid, shall neglect to make, repair and keep open, his, her or their proportion or allotment of said ditch, drain or water-course, that then and in such case, any one or more of the owners of such land or meadow may make, open and clear out, the said ditch, drain or water-course, from time to time, and recover the expenses thereof, from the person or persons neglecting to do the same, with costs of suit. *Provided always*, That in all cases where ditches, drains or water-courses, laid out as aforesaid, shall be on lines between different proprietors, the mud, earth and rubbish shall be cast equally on each side, except the owners or possessors, by agreement, shall determine otherwise.

7. *And be it further enacted*, That whenever water, conveyed in ditches, drains or water-courses as aforesaid, shall be carried or vented through gates, dams or sluices, or other works, that then all persons interested in such ditches, drains or water-courses shall bear such a share or proportion of the expense of keeping such dams, sluices or works in repair, as shall be fixed and determined by the surveyors and freeholders, laying out such drains as aforesaid, in all cases where the surveyors and freeholders

shall judge a proportion of such expenses ought to be borne by the owners of land drained as aforesaid.

1792.

8. *Provided always, and be it further enacted*, That in all cases where ditches, drains or water-courses shall be laid out pursuant to the directions of this act, the same shall be on lines between proprietors of land, where the same can be done with convenience to all parties concerned.

Ditches and water-courses to be laid on lines between proprietors.

9. *And whereas* there are large tracts of land unimproved, and lands held in common by the general proprietors in this state, by means whereof it will be difficult to recover the assessments and expenses directed by this act in case of default; *Be it therefore further enacted*, That it shall and may be lawful, for the recovery of the said assessments and expenses, for any person or persons entitled to recover the same, upon his or their giving notice, by advertisement, of the sum assessed or expenses adjudged, in three or more public places in the county, where the lands lie, and in one or more of the newspapers of this state, for the space of six weeks, and the general proprietors refusing or neglecting to discharge the same, the party entitled to receive the same, may make return of such delinquents to one of the judges of the inferior court of common pleas for the county, who shall enter judgment against such delinquent proprietor for such assessment, which judgment shall be filed in the clerk's office of the county, and writ of execution shall issue and be recorded by the clerk against the lands of the said delinquents, directed to the sheriff of the county, to make sale and dispose of so much of said lands, as near as may be, as will be sufficient to discharge the said assessment or expenses, and if upon such sale there should be any overplus, the said person or persons so prosecuting, are hereby declared to be accountable for the same to the general proprietors, their agent, or attorney.

How assessments, which may be laid on the general proprietaries, are to be collected.

10. *And be it further enacted*, That in order the more fully to enable the surveyors and freeholders, appointed as aforesaid, to allot to each person concerned his or her just proportion of such ditch, drain, or water-course, to clear, make, support and keep open, they be empowered and directed, whenever they deem it necessary, to cause actual surveys to be made of the quantity of meadow or swamp, held by each owner or possessor, that is benefited thereby; the expense thereof to be paid by each owner and possessor in proportion as before directed.

Survey of land to be made, when necessary to apportion the expense.

11. *And be it further enacted by the authority aforesaid*, That any person or persons shall think themselves aggrieved by any assessments made by virtue of this act, that on payment of such assessment, he, she, or they, may appeal to the next court of common pleas, to be held in and for the county in which such assessment is made, which court is hereby authorized to decide thereon, by making abatement or otherwise, as shall appear equitable and just.

Party aggrieved by an assessment, may appeal to the court of common pleas.

12. *And be it further enacted*, That the act, entitled "An act to enable the owners of meadow ground to drain the same," passed December the twenty-third, seventeen hundred and eighty-three, be and the same is hereby repealed.

Former act repealed.

1792.

PAT. 121.

A SUPPLEMENT to the act, entitled "An act to incorporate the contributors to the society for establishing useful manufactures."

Passed the 27th of November, 1792.

Preamble.

WHEREAS doubts have arisen, whether the society for establishing useful manufactures, or the directors of the said society were authorized in and by the said recited law, incorporating the said society, to pass any by-laws or ordinances to enforce the payment of the subscriptions to the said society; THEREFORE—

The society or board of directors, how to compel payment of subscriptions.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same That it shall and may be lawful for the said society for establishing useful manufactures, or the directors of the said society, and they or either of them are hereby authorized to pass any by-law or ordinances to compel the punctual payment of the subscriptions to the said society, or any part thereof, and to annex the penalty of a forfeiture of the shares of such person or persons and of any moneys previously paid by him or them, on his, her or their respective share or shares, as shall neglect to comply with the terms of payment required by such by-laws or ordinances, any thing contained in the said recited act of incorporation to the contrary notwithstanding.

Subscribers refusing to account for moneys received, their shares to be stopped by the directors.

2. Be it further enacted by the authority aforesaid, That if any of the said subscribers to the said society, or any member of the same, hath received, or shall receive any of the moneys or stock of the said society, and hath refused or neglected, or shall refuse or neglect to account and settle with the said society or their directors for the same, it shall and may be lawful for the said society, or the directors of the same, to stop the shares of such person or persons, so neglecting or refusing to account, until he, she or they, shall make due satisfaction for the property of the society, which has come into his, her, or their hands or possession; and upon a continued neglect or refusal to account, shall and may be lawful for the said society, or their directors, within six months after such person or persons have been called upon to account, to declare the shares so stopped, to be forfeited, and vested in the society.

Mistake in former act amended.

3. And whereas, in and by the sixth section of the said recited law, it is enacted, that the original stock of the said society shall consist of one hundred thousand shares, instead of ten thousand shares, through a mistake in the drawing of the law; for remedy whereof, Be it further enacted by the authority aforesaid, That the sixth section of the said law, so far as relates to the number of shares of the said society, shall be and the same is hereby repealed; and that the original stock of the said society shall consist of ten thousand shares, each share being one hundred dollars.

Part of former act repealed.

4. Whereas also in and by the twenty-eighth section of the said law, it is among other things enacted, that for the well ordering of the affairs of the said corporation, there shall be a mayor

recorder, twelve aldermen and twelve assistants, who shall be appointed by the council and general assembly in joint-meeting, and commissioned by the governor of this state; *And whereas* in and by the thirty-second section of the said law, it is among other things enacted, that the said mayor, recorder, aldermen and assistants, for the time being, shall severally and respectively have all the powers and authorities of justices of the peace: *And whereas* by the petition of the directors of the said society it appears, that it will be more agreeable to the said corporation, that the said assistants should not have the powers of justices of the peace, and that they should be chosen by the people; *Be it therefore enacted by the authority aforesaid,* That so much of the said act, as relates to the appointment of the said twelve assistants, and to the vesting of them with the powers of justices of the peace, shall be, and the same is hereby repealed; and that the said twelve assistants shall only have the powers of common council men, and shall be chosen by the inhabitants of the said town, at their annual town-meetings, in the same manner; that the officers and ministers of the said town are chosen, whose appointments are not in and by said act otherwise provided for and prescribed.

1793.

The twelve assistants to have only the power of common council men.

For the act to which this is a supplement, see page 108 of this volume.

AN ACT to incorporate into a township a part of the townships of Elizabeth and Newark, in the county of Essex.

PAT. 122.

Passed the 27th of May, 1793.

WHEREAS a number of the inhabitants of the townships of Elizabeth and Newark, in the county of Essex, have, by their petition, set forth, that they have long labored under many difficulties, by reason of the length of the said townships; for remedy WHEREOF—

Preamble.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Elizabeth, and the township of Newark, lying within the following line; beginning on the bank of Rahway river, in the line which divides the wards of Springfield and Westfield; thence running in the said line to the top of the mountain, and from thence to New-Providence meeting-house, and thence to Passaic river; thence down the said river to the bridge, commonly known by the name of Cook's bridge; thence down the old road to the top of the mountain; thence on a direct line to Kean's mills; thence on a direct line to a bridge, which crosses the east branch of Rahway river, commonly known by the name of Pierson's bridge, by his mill-dam, and from thence down the said river to the place of beginning; shall be, and is hereby set off from the townships of Elizabeth and Newark, and made a separate township, to be called by the name of "The township of Springfield."

Boundaries of the township of Springfield.

1794.

PAT. 122.

AN ACT to set off part of the township of Elizabeth, in the county of Essex, into a separate township.

Passed the 27th of January, 1794.

Boundaries of the township of Westfield.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Elizabeth, lying within the following lines; beginning at the line of the county of Middlesex, where the north and west branches of Rahway river meet or form a junction; from thence running up the said north branch of Rahway river to the mouth of Normahiggin branch, it being the south-east corner of the township of Springfield; from thence running with the line of Springfield aforesaid, in a course of north, forty-nine degrees west, to the top of the mountain; from thence on the same course to the east branch of Green Brook; thence down said branch and Green Brook to the line that divides the counties of Essex and Middlesex; thence along the line of Middlesex to the place of beginning; shall be and is hereby set off from the township of Elizabeth, and made a separate township, to be called by the name of, "The township of Westfield."

PAT. 123.

AN ACT to annex part of the township of Elizabeth to the township of Springfield.

Passed the 4th of February, 1794.

Description of the annexed parts.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Elizabeth, lying within the limits or boundaries herein described, that is to say, beginning where the line of the township of Springfield intersects the Passaic river; thence up said river to the line that divides the counties of Essex and Somerset; from thence on the line that runs between the two aforesaid counties, till it comes to the head of the west branch of Green Brook; thence down said brook on said line till it comes where the east and west branches of Green Brook form a junction; thence up the said east branch of said brook until it intersects the line of the township of Springfield, at the north-west corner of the township of Westfield; thence on the line of the township of Springfield to the place of beginning; shall be, and hereby is annexed to the township of Springfield and is to be taken and deemed as part and parcel thereof, as fully to all intents and purposes, as though the same had been set off and incorporated into the township of Springfield, in and by the act, entitled "An act to incorporate into a township, a part of the townships of Elizabeth and Newark, in the county of Essex," passed May the twenty-seventh, seventeen hundred and ninety three.

AN ACT to prevent unnecessary costs in collecting debts.

1794.

Passed the 20th of February, 1794.

PAT. 454.

WHEREAS doubts have sometimes arisen, whether, as the law now is, actions may be entered by plaintiffs in person in the minutes, and whether judgments may be confessed by defendants in person in the courts of this state—

Preamble.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That, from and after the passing of this act, any person, who is indebted to or may owe another, either by bond, covenant, note, book account or agreement, express or implied, shall have liberty to appear in person before the judges of the supreme court, or the judges of the court of common pleas, in the time of their holding their respective courts, and then and there in open court, on motion of the plaintiff or his attorney, a form of action, suitable to the cause, may be instituted and entered on the records, and the defendant's appearance entered and accepted, and thereon it shall and may be lawful for the said defendant to confess judgment to the plaintiff or plaintiffs, or by a rule submit their cause to referees, in the usual form, whose report, when made, shall be entered on the records as a judgment of the court; which judgment, so confessed or obtained, and entered agreeably to the common rules of law, is hereby declared to be good and valid, and execution shall thereon issue in the same manner as if judgment had been obtained upon a legal process; and that the following fees shall be allowed, to wit:

How a debtor may personally appear in court, and confess judgment.

To the plaintiff for his costs, the sum of fifteen shillings.

Costs thereof.

To the clerk for entering the action, six pence; for entering the defendant's appearance, six pence; for entering a rule of reference and copy, one shilling; for entering judgment, six pence; for drawing bill of costs, one shilling.

To the court for judgment, three shillings.

To the judge for taxing the bill of cost, one shilling.

And to the crier for his fees, eight pence.

And no other nor greater fees shall be taxed in actions instituted as aforesaid until after judgment.

AN ACT authorizing the justices of the supreme court to appoint commissioners to take special bail, and to administer oaths and affirmations in causes depending in the said court.

PAT. 124.

Passed the 17th of November, 1794.

1. For the greater ease and benefit of persons entering into recognizances of special bail, and in their making oaths and affirmations in actions and suits depending, or to be depending in the supreme court of this state, **Be it enacted by the Council and General Assembly of this state, and it is hereby enacted by the**

Justices of the supreme court to appoint persons to take bail in actions in the said court.

1794.

Bail piece to be sent to, and filed in the office of the clerk of the said court.

Italic repealed by act of December 4th, 1807.

Fees for taking bail.

The supreme court to make rules for the justifying of the said bail.

Commissioners to take affidavits in causes depending in the supreme court.

Former act repealed.

authority of the same, That the chief justice and other judges of the supreme court of this state, for the time being, or any two of them, whereof the chief justice, for the time being, to be one, shall or may, by one or more commission or commissions under the seal of the said supreme court, from time to time empower such and so many person or persons, as they shall think fit and necessary in the several counties of this state, to take and receive all and every such recognizance or recognizances of bail or bails, as any person or persons shall be willing or desirous to acknowledge or make before any of the persons so empowered, in any action or suit depending, or hereafter to be depending in the said supreme court, in such manner and form, and by such recognizances or bail pieces, as the justices of the supreme court have used to take the same; which said recognizance or recognizances of bail or bail piece, so taken as aforesaid, shall be transmitted to the office of the clerk of the said supreme court, within the time allowed by the said court for putting in special bail in such cause or causes; which clerk, upon oath or affirmation, by him to be administered, of the due taking of the recognizance of bail or bail piece, by some person present at the taking thereof, shall receive, file and docket the same, upon payment of such fees as now are, or hereafter shall be allowed and established for such services; which recognizance of bail or bail piece, so taken and transmitted, shall be of like effect as if the same were taken de bene esse, before any of the justices of the said court; and for the taking of every such recognizance of bail or bail piece, the said commissioners shall receive twenty-eight cents, and no more.

2. *And be it enacted by the authority aforesaid, That the said supreme court shall make such rules and orders for the justifying such bails, and making the same absolute, as to the said court shall seem meet, so as the cognizor or cognizers of such bail or bails be not compelled to appear in person in the said court to justify him or themselves; but the same may, and is hereby directed to be determined by affidavit or affidavits, duly taken before the said commissioners, who are hereby respectively empowered and required to take the same, and also to examine the sureties, on oath or affirmation, touching the value of their respective estates.*

3. *And be it enacted by the authority aforesaid, That every commissioner, appointed by virtue of this act, shall have full power and authority to administer an oath or affirmation to any person, who shall be willing and desirous to make such oath or affirmation before him, in or concerning any cause or causes depending or to be depending in the said supreme court; and every affidavit, made or to be made before such commissioners, shall, and is hereby declared to be as good and effectual to all intents and purposes, as if the same were made before the chief justice or other justice of the supreme court.*

4. *And be it enacted by the authority aforesaid, That the act, entitled "An act to enable the chief justice and other judges of the supreme court to appoint commissioners in the several counties of this province to take special bail, and to administer*

oaths and affirmations in causes depending in the supreme court," passed the fourth day of November, in the year of our Lord, one thousand, seven hundred and forty-one, shall be, and the same is hereby repealed.

1794.

AN ACT respecting amendments and jeofails.

PAT. 126.

Passed the 21st of November, 1794.

1. *Be it enacted by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That, by the misprision of a clerk, no process shall be annulled or discontinued, by mistaking in writing a syllable or a letter, too much or too little; but as soon as such misprision is perceived, by challenge of the party, or in other manner, it shall be instantly amended in due form, without giving advantage to the party challenging the same. And the court, before whom such plea or record is made, or shall be depending, as well by adjournment as by way of error, shall have full power, both after and before judgment given therein to amend such record or process, as long as the same is before them.

Mistakes in process and records may be amended both after and before judgment.

2. *And be it enacted by the authority aforesaid,* That for error assigned, or to be assigned, in any record, process, warrant of attorney, writ original or judicial, panel, or return, because there are any rasures, or interlineations, or any addition, subtraction or diminution of words, letters or titles, or parcel of letters, in any such record, process, warrant of attorney, writ, panel, or return, no judgment or record shall be reversed or annulled.

Judgments not to be reversed for rasures or interlineations

3. *And be it enacted by the authority aforesaid,* That the court, in which any record, process, declaration, count, plea, warrant of attorney, writ, panel, or return, is or may be, shall, while the same remains before them, have power to examine such record, process, declaration, count, plea, warrant of attorney, writ, panel, or return, by them and their clerks, and to rectify and amend, in affirmance of the judgment of such record or process, whatever to them, in their discretion, shall seem to be the misprision of the clerk, in such record, process, declaration, count, plea, warrant of attorney, writ, panel, or return; so that, by such misprision of the clerk, no judgment shall be reversed or annulled.

Court may order misprisions of clerks to be amended

4. *And be it enacted by the authority aforesaid,* That if any record, process, declaration, count, plea, warrant of attorney, writ, panel, or return, be certified defective, otherwise than according to the writing, which thereof remains in the office, court, or place, from whence the same is certified, the parties, in affirmance of the judgment of such record or process, may allege that the same writing is variant from the said certificate, and that being found and certified, the said variance shall be, by the said court, rectified and amended according to the first writing.

Variance between a record and certificate thereof, amendable.

5. *And be it enacted by the authority aforesaid,* That the court, before whom any misprision or default is or shall be found

Misprisions of clerks, sheriffs, and other officers, amendable.

1794.

in any record or process, which now is, or hereafter shall be depending before them, as well by way of error as otherwise, or in the returns of the same, made or to be made by sheriffs, coroners, or any other, by misprision of the clerk of such court, or by misprision of the sheriffs, under-sheriffs, coroners, or their clerks, or other officers, clerks, or other ministers whatsoever, in writing a letter or syllable too much or too little, shall have power to amend such defaults and misprisions, according to their discretion; and by examination thereof by the said court, to be taken where they shall think necessary; and that all such amendments may be made, as well after a judgment given upon verdict, confession, nihil dicit, or non sum informatus, as upon matter of law pleaded.

No person to be prejudiced by ancient terms and forms.

6. *And be it enacted by the authority aforesaid,* That by the ancient terms and forms of pleaders, no person shall be prejudiced, so that the matter of the action be fully shewed in the writ, declaration and pleadings.

Records not to be altered in any term after judgment.

7. *And be it enacted by the authority aforesaid,* That the record of pleas, real, personal or mixed, whereof judgment is or shall be given and enrolled, or things touching such pleas, shall not be amended or impaired by new entering of the clerk, or by the record or matter certified, in any term subsequent to that in which such judgment, in any such plea, is or shall be given and enrolled.

After verdict, judgment not to be reversed for mispleading, discontinuance, &c.

8. *And be it enacted by the authority aforesaid,* That if any issue hath been or shall be tried, by the oath or affirmation of twelve men, or more, for the party plaintiff or defendant, or for the party tenant or defendant, bailiff in assize, vouchee, prayee in aid, or tenant by receipt, in any action, suit, bill, plaint, or demand, in any court of record, then the court, by whom judgment thereof ought to be given, shall proceed and give judgment in the same, notwithstanding any mispleading, lack of color, insufficient pleading, or jeofail, any miscontinuance, discontinuance, or misconceiving of process, misjoining of the issue, lack of warrant of attorney, of the party against whom the issue shall be tried, or any other default or negligence of any of the parties, their counsellors or attorneys; and the judgments thereof so had and given, or to be had and given, shall stand in full strength and force, to all intents and purposes, according to the said verdict, without any reversal or undoing of the same by writ of error or otherwise, in like form as though no such default or negligence had ever been had or committed.

After verdict, judgment not to be reversed for want of form, &c.

9. *And be it enacted by the authority aforesaid,* That if any verdict of twelve men or more hath been or shall be given in any action, suit, bill, plaint, or demand, in any court of record, the judgment thereupon shall not be stayed or reversed, by reason of any default in form, or lack of form, touching false English, or variance from the register, or other defaults in form, in any writ, original or judicial, count, declaration, plaint, bill, suit, or demand, or for want of any writ, original or judicial, or by reason of any imperfect or insufficient return of any sheriff, or other officer, or for want of any warrant of attorney, or by reason of any

manner of default in process upon or after any aid prayer, or voucher; nor shall any such record or judgment, after verdict, be reversed for any of the defects or causes aforesaid.

1794.

10. *And be it enacted by the authority aforesaid,* That if any verdict of twelve men or more hath been or shall be given for the plaintiff or demandant, or for the defendant or tenant, bailiff in assize, vouchee, prayee in aid, or tenant by receipt, in any action, suit, bill, plaint, or demand, in any court of record, the judgment thereupon shall not be stayed or reversed for any variance, in form only, between the original writ or bill, and the declaration, plaint, or demand, or for lack of averment of any life or lives of any person or persons, so as, upon examination, the said person be proved to be in life, or by reason that the *venue facias*, *habeas corpora*, or *distringas*, is or shall be awarded to a wrong officer, upon any insufficient suggestion, or by reason that any of the jury, which tried the said issue, is or shall be misnamed, in the christian name, surname, or addition, in any of the said writs, or in any return upon any of the said writs, so as, upon examination, it be proved to be the same man, who was meant to be returned, or by reason that there is or shall be no return upon any of the said writs, so as a panel of the names of the jurors be returned and annexed to the said writ or writs, or for that the name of the sheriff, or other officer, having the return thereof, is not set to the return of any such writ, so as, upon examination, it be proved, that the said writ was returned by the sheriff or under-sheriff, or any such other officer, or by reason that the plaintiff in any action of ejectment, or in any personal action or suit (being an infant under the age of twenty-one years) did or shall appear by attorney therein, and the verdict pass in favour of such plaintiff.

After verdict, judgment not to be reversed for variance in form between the writ and declaration, or want of averment, insufficient suggestions, misnaming of jurors, &c.

11. *And be it enacted by the authority aforesaid,* That if any verdict of twelve men hath been or shall be given in any action, suit, bill, plaint or demand, in any court of record, the judgment thereupon shall not be stayed or reversed for default in form, or lack of form, or by reason that there are no pledges, or but one pledge, to prosecute, returned upon the original writ, or because the name of the sheriff is not returned upon such original writ, or for default of entering pledges upon any bill or declaration, or for default of alleging the bringing into court any bond, bill, indenture or other deed whatsoever, mentioned in the declaration or other pleading, or for default of alleging the bringing into court letters testamentary, or letters of administration, or by reason of the omission of the words, "with force and arms," or, "against the peace," or for or by reason of the mistaking of the christian name or surname of the plaintiff or defendant, demandant or tenant, sum or sums of money, day, month, or year, by the clerk, in any bill, declaration or pleading, where the right christian name, surname, sum, day, month, or year, in any writ, plaint, roll, or record preceding, or in the same roll or record, where the mistake is committed, is or are truly and rightly alleged, and to which the party might have demurred, and shewed the same for cause, nor for want of the averment or words, "and

After verdict, judgment not to be reversed for want of pledges, or of bringing into court any bond, deed, letters testamentary, &c., or for the omission of certain words, or mistake of name, sum, day, &c.

1794.

this he is ready to verify," or, "and this he is ready to verify by the record," or for not alleging, "as appears by the record," or for that there is no right venue, so as the cause was tried by a jury of the proper county or place, where the action is laid; nor shall any judgment, after verdict, be reversed for want of entering, that the person, against whom such judgment is given, "be in mercy," or, "be taken," or by reason that the words, "be taken," are entered for, "be in mercy," or the words, "be in mercy," are entered for, "be taken," nor for that, in the judgment, the words, "it is granted," are entered for, "it is considered," nor for that the increase of costs, after a verdict in any action, or upon a nonsuit in replevin, are not entered to be at the request of the party, for whom the judgment is given, nor by reason that the costs, in any judgment whatsoever, are not entered to be by consent of the plaintiff; but that all such omissions, variances, defects, and all other matters of like nature, being against the right of the matter of the suit, nor whereby the issue or trial is altered, shall be amended by the court, where such judgments are or shall be given, or to which the record is or shall be removed by writ of error.

The court, on demurrer, to give judgment according to the right of the cause, without regarding defects, not specially shewn for cause of demurrer.

12. *And be it enacted by the authority aforesaid,* That where any demurrer hath been, or shall be joined and entered in any action or suit in any court of record of this state, the court shall proceed and give judgment, according as the very right of the cause and matter in law shall appear unto them, without regarding any imperfection, omission, defect, or want of form, in any writ, return, plaint, declaration or other pleading, process, or course of proceeding whatsoever, except those only which the party demurring shall specially and particularly set down and express, together with his demurrer, as causes of the same, notwithstanding that such imperfection, omission, or defect might have heretofore been taken to be matter of substance, so as sufficient matter appear in the pleadings, upon which the court may give judgment according to the very right of the cause; and therefore no advantage or exception shall be taken of or for an immaterial traverse, or of or for the default of entering pledges upon any bill or declaration, or of or for the default of alleging the bringing into court any bond, bill, indenture, or other deed whatsoever, mentioned in the declaration or other pleading, or of or for the default of alleging the bringing into court letters testamentary or letters of administration, or of or for the omission of the words, "with force and arms," or, "against the peace," or either of them, or of or for want of the averment or words, "and this he is ready to verify," or, "and this he is ready to verify by the record," or of or for not alleging, "as appears by the record;" but the court shall give judgment according to the very right of the cause as aforesaid, without regarding any such imperfections omissions, or defects, or any other matter of like nature, except the same shall be specially and particularly set down and shewn for cause of demurrer; and that no judgment shall be reversed by any writ of error, for any such imperfection, omission, defect or want of form as aforesaid, except such only as are before ex

cepted; and every court of record of this state shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects, and wants of form as are before mentioned, other than those only which the party demurring shall specially and particularly express and set down, together with his demurrer, as aforesaid, and may, at any time, permit either of the parties to amend any defect in the process or pleadings upon such terms and conditions as the said court shall, in their discretion, direct and prescribe.

1794.

Defects in process and pleadings amendable on terms.

13. *And be it enacted by the authority aforesaid,* That this act shall extend to all judgments, which have been or shall be entered upon confession, nihil dicit, or non sum informatus, in any court of record; and no such judgment shall be reversed, nor any judgment, upon any assessment or writ of inquiry of damages made or executed thereon, be stayed or reversed for or by reason of any imperfection, omission, defect, matter, or thing whatsoever, which would have been aided and cured by this act, in case a verdict of twelve men had been given in the said action or suit, so as there be an original writ or bill duly filed according to law.

This act to extend to judgments on confession.

14. *And be it enacted by the authority aforesaid,* That all writs of error, wherein there shall be any variance from the original record, or other defect, may and shall be amended and made agreeable to such record by the respective courts, where such writ or writs of error shall be made returnable.

Variance in writs of error, from the original record, to be amended.

15. *And be it enacted by the authority aforesaid,* That where any verdict hath been or shall be given in any action, suit, bill, plaint or demand, in any court of record, the judgment thereupon shall not be stayed or reversed for any defect or fault, either in form or substance, in any bill, writ original or judicial, or for any variance in such writ from the declaration or other proceedings.

Judgment, after verdict, not to be reversed for want of form or substance in any writ.

16. *And be it enacted by the authority aforesaid,* That this act shall extend to all suits, in any court of record, for the recovery of any debt due to this state, or for any debt, duty, or revenue belonging to the same; and also to all writs of mandamus, and informations, in nature of quo warranto, and proceedings thereon.

This act shall extend to suits for debts due to the state, and to writs of mandamus, and quo warranto.

17. *And be it enacted by the authority aforesaid,* That all proceedings, whatsoever, in every court of law and equity in this state, shall be in the English tongue and language, and in no other tongue or language, and shall be written or printed in a good, strong, legible hand or character, and in words at length, and not abbreviated, except such abbreviations as are commonly used in the English language. *Provided nevertheless,* That it shall and may be lawful to express numbers by figures, in like manner as hath been heretofore, or is now commonly used in the said courts respectively, and to express the proper and known names of writs or other process, or technical words, in such language as hath been commonly used, so as the same be written or printed in a common legible hand or character.

All judicial proceedings to be in the English language; except names of writs and technical terms.

18. *And be it enacted by the authority aforesaid,* That this act shall be taken and construed, in all courts of justice, in the most

The construction of this act, to be liberal and beneficial.

1794.

This act not to extend to indictments, popular actions, or out-lawries.

ample, beneficial and liberal manner, for the ease and benefit of the parties, and to prevent frivolous and vexatious delays.

19. *Provided always, and be it further enacted by the authority aforesaid,* That no part of this act, except that which directs proceedings to be in the English language, shall extend to any indictment or presentment for any criminal matter, or process upon the same; nor to any writ, bill, action or information, upon any popular or penal statute, nor to any outlawry, or process thereupon, or in order thereunto.

PAT. 129.

AN ACT concerning justices of the peace, and courts of general quarter-sessions.

Passed the 22d November

The powers and duties of justices of the peace.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the justices of the peace, who have been or shall be appointed and commissioned in and for the several counties of this state shall, jointly and severally, have full power to keep, and cause to be kept, all laws made or to be made for the conservation of the peace, and for the good government of the citizens and inhabitants of this state, within the said counties respectively, according to the force, form, and effect of the same laws; and to apprehend, imprison and punish all persons offending against those laws or any of them in the said respective counties, in such manner as, according to those laws, shall be right and proper; and to cause to come before them, or any of them, all person who shall break the peace, or have used, or shall use threats to any of the citizens or inhabitants of this state, concerning his or her body, or the firing of his or her house, barn, or other building, or who are not of good fame where they are found, to enter into recognizance, with sufficient surety, for the peace, or their good behavior towards the people and inhabitants of the state; and if they enter not into such recognizance, then to cause them to be safely kept in prison until they do the same; and further to perform and execute all such matters, acts, and things as, by law, appertain to their office, and are or shall be enjoined upon them, and committed to their charge and execution, jointly and severally.

Court of sessions, how constituted; its authority and jurisdiction.

2. *And be it enacted by the authority aforesaid,* That the said justices of every county of this state, or any three or more of them, shall constitute a court of general quarter-sessions of the peace in and for such county; which court shall be a court of record, and shall have cognizance of all crimes and offences which, by law, are or shall be of an indictable nature, and which in such county hath been done or perpetrated, or shall hereafter be done or attempted; and for that purpose shall have authority to award precepts, to be directed to the sheriff, for grand and petit jurors, to inspect indictments taken or to be taken before them, to make and continue process thereupon, to hear and de

termine all such crimes and offences as aforesaid, and to punish the persons, convicted of the same, according to law. *Provided always*, That indictments for treason, murder, manslaughter, sodomy, rape, polygamy, arson, burglary, robbery, forgery, perjury, and subornation of perjury, and crimes punishable with death, although the same be found in such court of general quarter-sessions, shall be tried in the supreme court, or court of oyer and terminer, or general gaol delivery, and not elsewhere; and for that purpose the said court of general quarter-sessions shall cause all such indictments to be delivered to the next supreme court, or court of oyer and terminer, or general gaol delivery, to be held in such county.

3. *And be it enacted by the authority aforesaid*, That all precepts, writs, and process, issuing out of the court of general quarter-sessions of the peace, shall be signed by the clerk, and sealed with the seal of the said court, and shall be tested the day on which the said court shall have adjourned, and in the name of the presiding justice of such court.

4. *And be it enacted by the authority aforesaid*, That every justice of the peace, who hath taken, or shall take any recognizance for the keeping of the peace, or good behavior, shall certify, send, or bring the same recognizance to the next court of general quarter-sessions of the peace in and for the county, where he is or hath been justice, that the party so bound may be called; and if the party so bound make default, the said default shall be taken and there recorded, and the same recognizance prosecuted to effect in the manner directed by law.

5. *And be it enacted by the authority aforesaid*, That the courts of general-quarter sessions of the peace shall send their indictments to the courts of general gaol delivery in their respective counties.

6. *And be it enacted by the authority aforesaid*, That all and every justice and justices of the peace, before whom any person shall be brought for treason, misprision of treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, larceny, or forgery, or for suspicion thereof, or for any crime punishable with death, or suspicion of such crime, shall, before he or they commit or send such offender to prison, take in writing, the examination of such offender, and information of those, who bring him or her, of the fact and circumstances thereof; which said examination and information shall be signed by such informant, and by the justice or justices before whom the same shall be taken; and also by the examinant, if he shall be willing to sign the same; and the said justice or justices shall deliver or transmit the said examination and information to the next court, in which such offender is or ought to be tried for such offence. And the said justices and every of them are hereby authorized and required to bind, by recognizance, all such as declare any thing material to prove the said treason or other offence as aforesaid against such offender, to appear in the supreme court the term following, or at the next session of oyer and terminer, or general gaol delivery for the county, where the offence was committed, or in such other court,

1794.

What indictments, found in the sessions, shall be tried in the supreme court, or court of oyer and terminer, or general gaol delivery.

Writs and process of the courts of sessions, how to be signed, sealed, and tested.

Justices to send recognizances to the next court after taken.

Indictments to be sent to the court of general gaol delivery.

In what cases justices shall take, in writing, the examination of offenders, and information against them.

Such examination and information to be sent to the next court.

Witnesses to be bound by recognizance, to the next court, and such recognizance to be sent to the same.

1794.

where the said offence is cognizable, then and there to give evidence against the said offender; and shall certify the said recognizance and recognizances taken before him, or them to the said court, where such witnesses are bound to appear, on the first day of the term or session of the same court.

Justices, who shall not perform the duties specified in the preceding section, to be fined by the court.

7. *And be it enacted by the authority aforesaid,* That if any justice of the peace shall refuse or neglect to take such examination or information as aforesaid, or to deliver or transmit the same as aforesaid, or shall refuse or neglect to bind the witnesses to appear as aforesaid, or to certify the recognizance, by him taken as aforesaid, then the court, wherein such witnesses ought to be bound to appear, and to which such examinations, informations and recognizances ought to have been delivered, transmitted or certified, upon due proof thereof upon examination before the court, shall, for every such offence or neglect, set such a fine upon the said justice as the same court shall think fit and reasonable.

What offenders may or may not be admitted to bail by justices of the peace.

8. *And be it enacted by the authority aforesaid,* That the court of general quarter-sessions of the peace, and the justices of the peace, and each and every of them in and for every county of this state, are hereby authorized, at their discretion, to let to bail or mainprise unto the next court of general quarter-sessions of the peace, or of oyer and terminer, or general gaol delivery, to be held in the same county, all persons, who are or may be arrested or imprisoned in their respective counties, for any crime or offence therein done or attempted; except such as are or shall be charged with treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, or suspicion thereof, or with any crime punishable with death, or suspicion of such crime; and no person or persons, charged with the offences, or any of them, so excepted as aforesaid, shall be admitted to bail or mainprise by the said court of general quarter-sessions, or justices of the peace, or any of them.

Justices to send recognizances of bail to the next court; and to bind by recognizance, witnesses to give evidence.

9. *And be it enacted by the authority aforesaid,* That all and every justice and justices of the peace, who shall let any offender to bail, shall certify, send, or bring such recognizance of bail to the next court of general quarter-sessions, or of oyer and terminer, or general gaol delivery, to which the said offender shall be bound to appear. And it shall be the duty of all and every justice or justices of the peace to bind, by recognizance, all such persons as can give testimony against any such offender, touching his or her offence, to appear at the next court of general quarter-sessions, or of oyer and terminer, or general gaol delivery, as the case may require, to be held within the county where the trial thereof shall be had, then and there to give evidence against such offender; and also to certify, send, or bring such recognizance to the same court. *And further,* If any justice of the peace shall offend in any thing against the true intent and meaning of this clause, or section, then the court of general quarter-sessions of the peace, or of oyer and terminer, or general gaol delivery, of the county, where such offence shall be committed, upon due proof thereof, upon examination before them, shall, for every such offence, set such fine on the said justice of the peace as the same court shall think fit and reasonable.

Justices of-fending against this section, to be fined.

10. *And be it enacted by the authority aforesaid,* That it shall be the duty of every justice of the peace to bind, by recognizance, to the proper court, all persons, who can bear testimony touching any offence committed against this state, whether the offender be arrested, imprisoned, bailed, or not, and to take the examinations of such witnesses respecting the same; and the said recognizances and examinations to certify, send, or bring to such court as aforesaid; and in case such justice of the peace shall offend herein, he shall be proceeded against and fined in the manner directed in the section immediately preceding.

1794.

Justices to bind witnesses and to take their examinations in all offences against the state, and to send the same to the proper court.

11. *And be it enacted by the authority aforesaid,* That in case any person, against whom a warrant shall be issued by any justice or justices of the peace of any county in this state, for any offence there committed or done, shall escape, go into, reside, or be in any other county, out of the jurisdiction of the justice or justices granting such warrant as aforesaid, it shall and may be lawful for, and it is hereby declared to be the duty of any justice or justices of the peace of the county, where such person shall escape, go into, reside, or be, upon proof being made, upon oath or affirmation, of the hand-writing of the justice or justices granting such warrant, to endorse his or their name or names on such warrant, which shall be a sufficient authority to the person or persons bringing such warrant, and to all other persons, to whom such warrant was originally directed, to execute such warrant in such other county, out of the jurisdiction of the justice or justices granting such warrant as aforesaid, and to apprehend and carry such offender before the justice or justices, who endorsed such warrant, or some other justice or justices of such other county, where such warrant was endorsed; and in case the offence, for which such offender shall be so apprehended as aforesaid, shall be bailable in law by a justice of the peace, and such offender shall be willing and ready to give bail for his or her appearance at the next court of general gaol delivery, or general quarter-sessions of the peace, to be held in and for the county, where the offence was committed, such justice or justices of such other county, before whom such offender shall be brought, shall and may take bail of such offender for his or her appearance at the next court of general gaol delivery, or general quarter-sessions of the peace, to be held in and for the county, where such offence was committed, in the same manner as the justices of the peace of the proper county might have done; and the justice or justices of such other county, so taking bail as aforesaid, shall deliver the recognizance of bail, and all other proceedings relating to the said offender and offence before him had, to the constable, or other person or persons, so apprehending such offender, as aforesaid, who is and are hereby required to receive the same, and to deliver over such recognizance and other proceedings to the clerk of the court of general gaol delivery, or of the court of general quarter-sessions of the county, where such offender is required to appear, by virtue of such recognizance; and such recognizance and other proceedings shall be as good and effectual in law, to all intents and purposes, and of the same force and

A warrant issued against an offender, by a justice of the peace, of one county, may be endorsed by a justice of the peace of any other county, where such offender shall reside or escape.

1794.

validity, as if the same had been entered into, taken, or acknowledged before a justice or justices of the peace in and for the proper county, where the offence was committed, and the same proceedings shall be had thereon; and in case such constable, or other person, to whom such recognizance, or other proceeding shall be so delivered as aforesaid, shall refuse or neglect to deliver over the same to the clerk of such court as aforesaid, when the offender is required to appear by virtue of such recognizance such constable or other person shall forfeit thirty dollars, to be recovered against him, with costs, by action of debt, bill, plaint or information, in any court of record having cognizance thereof by any person or persons, who will prosecute or sue for the same. And in case the offence, for which such offender shall be apprehended in any other county, shall not be bailable in law by a justice of the peace, or such offender shall not give bail for his or her appearance at the next court of general gaol delivery, or of general quarter-sessions of the peace, to be held in and for the county, where the offence was committed, to the satisfaction of the justice or justices, before whom such offender shall be brought in such other county, then the constable or other person, so apprehending such offender, shall carry and convey such offender before one of the justices of the peace of the proper county, where such offence was committed, there to be dealt with according to law.

No action to be brought against a justice, who shall endorse such warrant.

12. *And be it enacted by the authority aforesaid,* That no action of trespass or false imprisonment, or information, or indictment shall be brought, sued, commenced, exhibited, or prosecuted, by any person or persons whatsoever, against the justice or justices, who shall endorse such warrant, for or by reason of his or their endorsing the same; but such person or persons shall be at liberty to bring or prosecute his, her, or their action or suit against the justice or justices, who originally granted such warrant in the same manner as such person or persons might have done in case this clause of this act had not been made.

PAT. 132.

AN ACT to prevent the burning of woods, marshes and meadows.

Passed the 24th of November, 1794.

Persons who shall set fire to or burn woods, marshes or meadows, liable to be fined or imprisoned, and to pay double damages.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same* That if any person shall wilfully set fire to, or burn, or procure a cause to be burnt his or her own woods, marshes, or meadows, or the woods, marshes, or meadows in his or her tenure or possession, by means whereof any other person shall be damaged in his or her houses, buildings, fences, woods, or other property whatsoever, or shall wilfully set fire to or burn, or procure a cause to be burnt any woods, marshes, or meadows of another whether the same be enclosed or not; such person, so offending in any of the premises, shall be deemed to be guilty of a misdemeanor, and, on conviction, shall be punished by fine, not ex

ceeding one hundred dollars, or imprisonment at hard labor not exceeding twelve months, or both; and also shall yield and pay double damages to the party injured thereby, to be recovered, by action on the case, with costs of suit, in any court having cognizance thereof. *Provided*, That nothing in this act contained shall be construed to prohibit the owners of salt and fresh marshes and meadows, and their tenants, from burning such marshes and meadows in the usual manner, in which the same have been heretofore burnt in the several counties of this state.

2. *And be it enacted by the authority aforesaid*, That when the woods, in any part of this state, shall be on fire, the justices of the peace, the constables, and the overseers of the highways, residing in the vicinity of said fire, shall, and they are hereby severally authorized and required, forthwith to order such and so many of the inhabitants within their respective jurisdictions, as they shall severally deem necessary, to repair to the place where such fire shall prevail, and there to assist in extinguishing or stopping the progress of the same; and if any person, so ordered to assist in manner aforesaid, shall refuse or neglect to comply with such order, he shall forfeit and pay one dollar for every day he shall so neglect or refuse to obey, to be recovered, with costs, before any justice of the peace of the county, where such notice has been given, and the oath or affirmation of the person, who shall give such order, shall be sufficient evidence whereon to convict such offender; and the forfeiture so recovered shall be applied as a reward to such person or persons, as the officers aforesaid, or the major part of them, shall deem best entitled thereto for superior exertion at the extinguishment, or in stopping the progress of such fire.

3. *And be it enacted by the authority aforesaid*, That the act, entitled "An act to prevent unreasonable burning the woods," and the act, entitled "An act for restraining the burning of the woods, marshes, and meadows," passed the thirty-first day of July, in the year of our Lord, one thousand, seven hundred and forty, and the act, entitled "A supplementary act to the act, entitled, an act for restraining the burning of the woods, marshes, and meadows," passed the twentieth day of June, in the year of our Lord, one thousand, seven hundred and sixty-five, be, and they hereby are respectively repealed. *Provided*, That neither such repeal, nor any thing in this act contained shall bar, prevent or effect the recovery of any fine, forfeiture, penalty, or sum or sums of money, which may have been incurred, forfeited, or arisen, or sued or prosecuted for under the two acts last mentioned; but that every indictment, suit, bill, plaint, or action upon the two last recited acts, and every offence against them, or cause of action under them, or either of them, which shall have been found, presented, or instituted, or shall have arisen or accrued previously to the passing of this act, shall be proceeded upon in the same manner as if this act had not been made.

1794.

But this act not to prevent the burning of marshes and meadows, in the manner heretofore done

Woods, when on fire, how to be extinguished.

Former acts repealed.

But the repeal not to affect the recovery of antecedent forfeitures.

1794.

PAT. 183.

AN ACT for the prevention of frauds and perjuries.

Passed the 26th of November, 1794.

Deeds of gift
of goods to the
use of the
person making
them, to be
void.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That every deed of gift, and conveyance of goods and chattels, made or to be made, in trust to the use of the person or persons, making the same deed of gift or conveyance, shall be, and hereby is declared to be void and of no effect.

Preamble.

All bonds,
judgments,
conveyances,
&c., to defraud
creditors and
others of their
just demands,
shall, as to
them, be void
and of no ef-
fect.

2. *And* for the avoiding and abolishing of all feigned, covenous, and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments, and executions, as well of lands and tenements, as of goods and chattels, which have been and are devised and contrived of malice, fraud, covin, collusion, or guile, to the end, purpose and intent, to delay, hinder or defraud creditors, and others, of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures and demands, not only to the let or hindrance of the due course and execution of law and justice, but also to the overthrow of all true and plain dealing, agreements, bargains, contracts and traffic between man and man, without which, no commonwealth or civil society can be maintained or continued; *Be it enacted by the authority aforesaid,* That all and every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattels, or any of them, or of any lease, rent, common, or other profit or charge out of the same lands, tenements, hereditaments, goods and chattels, or any of them, by writing or otherwise, and all and every bond, suit, judgment and execution, at any time heretofore had or made, or hereafter to be had or made, to or for any intent or purpose before declared and expressed, shall be deemed and taken, (only as against that person or those persons, his, her, or their heirs, successors, executors, administrators and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties, forfeitures and demands, by such guileful, covenous, or fraudulent devices, and practices, as aforesaid, are or shall, or may be in anywise disturbed, hindered, or defeated,) to be clearly and utterly void, frustrate, and of no effect; any pretence, color, feigned consideration, expressing of use, or any other matter or thing to the contrary, notwithstanding.

3. *And* for as much as not only this state, but divers of the citizens thereof, and bodies politic and corporate, after conveyances obtained or to be obtained, and purchases made or to be made, of lands, tenements, leases, estates and hereditaments, for money, or other good considerations, may have, incur, and receive great loss and prejudice, by reason of fraudulent and covenous conveyances, estates, gifts, grants, charges and limitations of uses heretofore made, or hereafter to be made, of, in, or out of the lands, tenements or hereditaments, so purchased, or to be purchased; which said gifts, grants, charges, estates, uses and conveyances, were or hereafter shall be meant and intended by the parties, who so make the same, to be fraudulent and cove-

ous, of purpose and intent to deceive such as have purchased, or shall purchase the same; or else, by the secret intent of the parties, the same to be to their own proper use, and at their free disposal, colored, nevertheless, by a feigned countenance and shew of words and sentences, as though the same were made bona fide, for good causes, and upon just and lawful considerations; for remedy of which inconveniencies, and for the avoiding of such fraudulent, feigned and covenous conveyances, gifts, grants, charges, uses and estates, and for the maintenance of upright and just dealing, in the purchasing of lands, tenements and hereditaments; *Be it enacted by the authority aforesaid*, That all and every conveyance, grant, charge, lease, estate, incumbrance and limitation of use or uses of, in, or out of any lands, tenements, or hereditaments whatsoever, at any time heretofore had or made, or hereafter to be had or made, for the intent and purpose to defraud and deceive such person or persons, bodies politic or corporate, as have purchased, or shall hereafter purchase, any estate of inheritance, or for life or lives, year or years, of or in the same lands, tenements or hereditaments, or any part or parcel thereof, so before conveyed, granted, leased, charged, incumbered or limited in use, or to defraud and deceive such as have or shall purchase any rent, profit or commodity, in or out of the same, or any part thereof, shall be deemed and taken (only as against the person and persons, bodies politic and corporate, his, her, and their heirs, successors, executors, administrators and assigns, and against all and every other person and persons, lawfully having or claiming by, from or under them, or any of them, who have purchased, or shall hereafter so purchase, for money, or other good consideration, the same lands, tenements or hereditaments, or any part or parcel thereof, or any rent, profit or commodity, in or out of the same) to be utterly void, frustrate, and of no effect; any pretence, color, feigned consideration, or expressing of any use or uses, to the contrary notwithstanding.

1794.

Conveyances, made to defraud or deceive purchasers, shall, as to them, be ineffectual and void.

4. *And be it enacted by the authority aforesaid*, That all and every the parties to such feigned, covenous and fraudulent seoffment, gift, grant, alienation, bargain, lease, charge, conveyance, bonds, suits, judgments, executions, and other things before expressed, or being privy to and knowing of the same, or any of them, who, at any time hereafter, shall wittingly and willingly put in use, avow, maintain, justify or defend the same, or any of them, as true, simple, and done, had or made, bona fide, and upon good consideration, or shall alien or assign any the lands, tenements, goods, leases, or other things before mentioned, to him, her or them conveyed as aforesaid, or any part thereof, shall incur the penalty and forfeiture of one year's value of the said lands, tenements and hereditaments, leases, rents, commons or other profits, of or out of the same, and the whole value of the said goods and chattels, and also so much money as is or shall be contained in any such covenous and feigned bond; the one moiety whereof to be to the state, and the other moiety to the party or parties grieved by such feigned and fraudulent seoffment, gift, grant, alienation, bargain, conveyance, bonds, suits, judgments, execu-

Penalty on the parties to, or making use of, such fraudulent bonds, judgments, conveyances, &c; and how to be recovered and applied.

1794.

tions, leases, rents, commons, profits, charges, and other things aforesaid; to be recovered in any court of record, by action of debt, bill, plaint or information.

A prior conveyance, with clause of revocation, shall be void against a posterior conveyance of the same lands, made by the same person, for a good consideration.

5. *And be it enacted by the authority aforesaid, That if any person or persons have made, or hereafter shall make, any conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance of, in, or out of any lands, tenements or hereditaments, with any clause, provision, article or condition of revocation, determination or alteration, at his, her, or their will or pleasure, of such conveyance or assurance, gift, grant, limitation of use or uses, or estates, of, in, or out of the said lands, tenements or hereditaments, or of, in, or out of any part or parcel of them, contained or mentioned in any writing, deed or indenture; and after such conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance so made or had, shall or do bargain, sell, demise, grant, convey or charge the same lands, tenements or hereditaments, or any part or parcel thereof, to any person or persons, bodies politic and corporate, for money, or other good consideration, paid or given, (the said first conveyance, assurance, gift, grant, demise, charge or limitation, not by him, her or them revoked, made void, or altered, according to the power and authority reserved or expressed unto him, her or them, in or by the said secret conveyance, assurance, gift or grant) then the said former conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance, as touching the said lands, tenements or hereditaments, so after bargained, sold, demised, granted, conveyed or charged, against the said bargainees, vendees, lessees, grantees, and every of them, their heirs, successors, executors, administrators and assigns, and against all and every person or persons, who have or claim, or shall or may lawfully have or claim any thing, by, from or under them, or any of them, shall be deemed, taken, and adjudged to be void, frustrate, and of no effect, by virtue and force of this act.*

This act not to affect bona fide conveyances to persons not having notice or knowledge of the fraud; nor any bona fide mortgage.

6. *Provided always, and be it further enacted by the authority aforesaid, That this act, or any thing therein contained, shall not extend to, or be construed to impeach, defeat, make void or frustrate; any conveyance, assignment of lease, assurance, grant charge, lease, estate, interest or limitation of use or uses, of, in, to, or out of any lands, tenements or hereditaments, goods or chattels, at any time heretofore had or made, or hereafter to be had or made, upon or for good consideration, and bona fide, to any person or persons, bodies politic or corporate, not having, at the time of, such conveyance or assurance to him, her or them made, any manner of notice or knowledge of such covin, fraud or collusion, as is aforesaid; and also, that no lawful mortgage made, or to be made, bona fide, and without fraud or covin, and upon good consideration, shall be impeached or impaired, by force of this act; but every such mortgage shall stand in like force and effect, as the same should have done if this act had never been made; any thing before in this act to the contrary notwithstanding.*

1794.

7. *And whereas* sundry common recoveries of lands, tenements and hereditaments, have heretofore been had, and hereafter may be had, against a tenant in tail, or other tenant of the freehold, the reversion or remainder, or the right of the reversion or remainder then being in some other person or persons; *Be it enacted by the authority aforesaid*, That every such common recovery heretofore had, and hereafter to be had, of any lands, tenements or hereditaments, shall, as touching such person or persons, who then had any reversion or remainder, or right of reversion or remainder, and against the heirs of every of them, stand, remain, and be of such like force and effect, and of no other, as the same should have been, if this act had never been made.

Common recoveries, against the tenant of the freehold, not to be affected by this act.

8. *Provided always, and be it enacted by the authority aforesaid*, That this act, or any thing herein before contained, shall not extend to make void any estate or conveyance, by reason whereof, any person or persons shall use any voucher in any writ of formedon, now depending, or hereafter to be depending; but that all and every such voucher and vouchers, in any writ of formedon, shall stand, and be in like force and effect, as if this act had never been made.

Nor any voucher in writs of formedon.

9. *And for the prevention of many fraudulent practices, which are commonly endeavored to be upheld by perjury and subornation of perjury, Be it enacted by the authority aforesaid*, That all leases, estates, interests of freehold or terms of years, or any uncertain interests of, in, to, or out of any messuages, lands, tenements or hereditaments, made or created, or hereafter to be made or created, by livery and seisin only, or by parol, and not put in writing, and signed by the parties, so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases, or estates at will only, and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect; any consideration for making any such parol leases or estates, or any former law or usage to the contrary notwithstanding; except, nevertheless, all leases, not exceeding the term of three years from the making thereof, whereupon the rent reserved to the landlord, during such term, shall amount to two third parts, at the least, of the full improved value of the thing demised.

All estates, by livery and seisin only, or by parol, to have the effect of estates at will,

except leases for three years.

10. *And be it enacted by the authority aforesaid*, That no leases, estates or interests, or term or terms of year or years, or any uncertain interest of, in, to, or out of any messuages, lands, tenements or hereditaments, shall, at any time hereafter, be assigned, granted or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or his, her, or their agent or agents, thereunto lawfully authorized by writing, or by act and operation of law.

No lease or interest in lands to be granted or assigned but by writing.

11. *And be it enacted by the authority aforesaid*, That all declarations or creations of trusts or confidences of any lands, tenements or hereditaments, shall be manifested and proved by some writing, signed by the party, who is or shall be by law enabled

All declarations and creations of trusts of lands to be in writing.

1794

to declare such trust, or by his or her last will in writing, or else they shall be utterly void and of no effect: but all declarations or creations of uses, trusts or confidences of any fines, or common recoveries of any lands, tenements or hereditaments, manifested and proved, or which hereafter shall be manifested and proved, by any deed already made, or hereafter to be made, by the party who is or shall be by law enabled to declare such uses or trusts after the levying or suffering of any such fines or recoveries, and shall be as good and effectual in the law, as if this clause of this act had never been made.

This act not to affect trusts arising by construction, or transferred or extinguished by operation of law.

12. *Provided always, and be it further enacted by the authority aforesaid,* That where any conveyance hath been, or shall be made of any lands, tenements or hereditaments, by which a trust or confidence shall or may arise or result by implication or construction of law, or be transferred or extinguished by act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect, as the same would have been, if this act had not been made.

Grants and assignments of trusts to be in writing.

13. *And be it enacted by the authority aforesaid,* That all grants and assignments of any trust or confidence shall likewise be in writing, signed by the party granting or assigning the same, or by his or her last will in writing, or else shall likewise be utterly void and of no effect.

Certain contracts, agreements, and promises, not binding, and available in law, unless made in writing.

14. *And be it enacted by the authority aforesaid,* That no action shall be brought, whereby to charge any executor or administrator, upon any special promise, to answer damages out of his own estate; or whereby to charge the defendant, upon any special promise, to answer for the debt, default or miscarriage of another person; or to charge any person, upon any agreement made upon consideration of marriage; or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them; or upon any agreement, that is not to be performed within the space of one year from the making thereof, unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him or her lawfully authorized.

No contract for the sale of goods, for the price of 30 dollars, to be binding, unless goods be delivered, earnest given, or note in writing be made.

15. *And be it enacted by the authority aforesaid,* That no contract for the sale of any goods, wares and merchandise, for the price of thirty dollars or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties, to be charged by such contract, or their agents, thereunto lawfully authorized.

AN ACT constituting courts of oyer and terminer and general gaol delivery.

1794.

PAT. 137.

Passed the 27th of November, 1794.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the justices, for the time being, of the supreme court,* and the judges, for the time being, of the respective courts of common pleas, in and for the several counties of this state, or any three or more of them, of whom one of the justices of the supreme court shall always be one, shall, by virtue of this act, and without any other commission, constitute the courts of oyer and terminer and general gaol delivery, in and for the said counties respectively.*

Judges of the supreme court and of the common pleas to constitute courts of oyer and terminer and general gaol delivery.

2. *And be it enacted by the authority aforesaid, That the said courts of oyer and terminer and general gaol delivery shall be held, in each county, at the place of holding the court of common pleas in the same, and at such times as the supreme court shall appoint.*

Times and places of holding such courts
See act 6th of June 1799, section 17.

3. *And be it enacted by the authority aforesaid, That each of the said courts of oyer and terminer and general gaol delivery, may be held and continued for so long time, at each session, as the business of and before such court shall render necessary.*

And their continuance.

4. *And be it enacted by the authority aforesaid, That the said courts of oyer and terminer and general gaol delivery shall have cognizance of all crimes and offences whatsoever, which, by law, are or shall be of an indictable or presentable nature, and which have been or shall be committed, done, or attempted, within the counties respectively, for which such courts shall be held; and shall have authority to deliver the gaols, in such counties of the prisoners therein; doing in the premises what to justice doth or shall appertain, according to the laws of this state.*

Jurisdiction of such courts.

5, 6. Repealed, and supplied February 13th, 1819.

7. *And be it enacted by the authority aforesaid, That the said sheriffs shall cause to be publicly proclaimed, throughout their respective counties, that all persons who will prosecute against the prisoners, being in the gaols of their counties, be then and there before such courts, to prosecute against them agreeably to law, and shall also give notice to all justices of the peace, coroners, and constables, within their respective counties, that they be then and there in their own persons, with their rolls, records, indictments and other remembrances, to do those things, which to their offices, in that behalf, shall appertain to be done; and the said respective sheriffs, and their respective under-sheriffs, shall then and there attend, in their proper persons, to do those things, which to their offices in that behalf appertain to be done.*

Sheriffs to attend such courts, and to give notice to prosecutors and officers to attend.

8. *And be it enacted by the authority aforesaid, That the said court of oyer and terminer shall have authority to direct their*

The court of oyer and terminer may send process into any county.

* See act for the more effectual administration of justice, passed the 2d of February, 1818; and supplement thereto, passed the 14th of February, 1819.

1794.

writs and processes into all the counties of this state, if necessary, to arrest and bring before them any person who shall be indicted in such court.

Courts of gaol delivery may try prisoners indicted before the quarter-sessions.

9. *And be it enacted by the authority aforesaid*, That the said courts of general gaol delivery, in the several counties, shall have authority to deliver the gaols of such prisoners, as are or shall be indicted before the courts of general quarter-sessions of the peace, in and for the same counties respectively.

Courts of oyer and terminer and gaol delivery may order indictments found before them, to be delivered to the quarter-sessions for trial.

10. *And be it enacted by the authority aforesaid*, That when any indictment or presentment, which the court of general quarter-sessions of the peace of the county is competent to try and determine, shall be found in the court of oyer and terminer or general gaol delivery, in and for such county, it shall be lawful for such court, if they think proper, to order the said indictment or presentment to be delivered to the clerk of the said court of general quarter-sessions, who is hereby directed to file the same, and also to make entry thereof in the minutes at the then or subsequent session; and after such affiling, the said court of general quarter-sessions shall have authority to issue process and proceed upon, and to hear and determine, such indictment or presentment, in like manner as if the same had been originally found in the said court of general quarter-sessions.

Indictments, transmitted to the court of gaol delivery, may be remanded to the quarter-sessions.

11. *And be enacted by the authority aforesaid*, That if any indictment or presentment, found in the court of general quarter-sessions of the peace, to the trial and determination whereof the said court is competent, be transmitted to the court of general gaol delivery, then such court may, if they think proper, remand such indictment or presentment to the said court of general quarter-sessions, there to be proceeded upon in like manner, as if the same had not been sent to the said court of general gaol delivery.

See supplement passed 13th February, 1819.

PAT. 138.

AN ACT to incorporate societies for the promotion of learning.

Passed the 27th of November, 1794.

Societies for the promotion of learning, may elect trustees, who shall be a body politic and corporate.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That each and every association of persons in this state for the promotion of learning, which now or hereafter may be, are hereby authorized and empowered, respectively, to meet together, at their usual place of meeting, at any time hereafter by them to be agreed upon, giving at least ten days notice of the time and purpose of meeting, by an advertisement, set up in some conspicuous place in the neighborhood where the said association may be formed, and being so met, shall, by plurality of voices of the persons so associated and met, elect any number of their said association, not exceeding seven, to be trustees of the same; which said trustees and their successors are hereby constituted a body politic and corporate, in fact, name and law, to all intents and purposes, for ever, by whatever name the said trustees, elected

as aforesaid, shall take and assume in the manner herein after directed, and by that name they shall have perpetual succession.

1794.

2. *And be it enacted by the authority aforesaid,* That the trustees of any association, elected as aforesaid, upon taking on themselves any name, and certifying the same under their hands and seals, and causing such certificate to be recorded in the clerk's office of the county in which such association shall be formed, such trustees, and their successors for ever, shall be known and distinguished in law, in all cases whatsoever, by the name they shall have so taken and recorded, as fully, to all intents and purposes whatsoever, as though they were herein particularly named and constituted; and by such name they respectively shall, for ever thereafter, be authorized, in law, to purchase, take, hold, receive and enjoy, any lands, tenements or hereditaments, in fee-simple or otherwise, by the gift, alienation or devise of any person or persons able to grant or devise the same; and also goods, chattels, legacies and donations granted and given to the said association, of which they shall be trustees as aforesaid, of what kind or quality soever, so that the yearly value of the same doth not exceed four thousand dollars; and also, that the said trustees of each respective association, as aforesaid, and their successors, by the name assumed and recorded as aforesaid, shall and may grant, convey, assign and sell, or otherwise dispose of, all or any of their lands, tenements or hereditaments, goods, chattels and personal estate whatsoever as to them shall seem meet; and also, that the said trustees of each respective association as aforesaid, and their successors, by the name to be taken and recorded as aforesaid, shall be able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all courts of judicature whatsoever: and also, that the said trustees of each respective association as aforesaid, and their successors, shall and may make, and for ever thereafter have and use a common seal, with such device or devices, as they shall think proper, for sealing all and singular deeds, contracts and other writings, touching and concerning the said corporation, and may, as often as they shall think fit, alter and new make the same, or any other their common seal.

Mode of acquiring a name

Trustees may purchase and hold goods and lands, whose yearly value shall not exceed 4,000 dollars;

and may sue and be sued, and have a common seal.

3. Repealed by act of June 6, 1820.

4. *And be it enacted by the authority aforesaid,* That it shall and may be lawful for the trustees, elected for each respective association as aforesaid, and their successors, from time to time, as they may find it necessary or expedient, to choose a president, being one of the said trustees, and such other officers and assistants as may be requisite for the keeping and preserving of the goods and chattels, moneys, books, charters, deeds, writings and accounts of the said corporation; which said president shall keep in his custody the common seal, and shall have power from time to time, and at all times hereafter as occasion may require, to call a meeting of the said trustees, at such convenient place in the neighborhood of the association, as he shall think proper, for the execution of all or any of the powers, hereby given them;

Trustees to elect a president and other officers.

Powers and duties of the president.

1794.

Trustees to
make orders
and regula-
tions.

and in case of sickness, absence or death of the president, all the powers hereby in him vested, shall vest and remain in the senior trustee on record, until the recovery or return of the president, or until a new president shall be chosen, as aforesaid.

5. *And be it enacted by the authority aforesaid,* That the said trustees of each respective association, as aforesaid, and their successors, shall have full power and authority to make all such necessary and useful orders and regulations (not inconsistent with the laws of the state) as to them may seem meet and proper, for promoting the cause of learning in the seminary under their superintendence, as well with respect to discipline, as to the different branches of education to be used therein. *Provided nevertheless,* That there be a majority of the whole number of the said trustees present and agreeing, in order to make valid any such order, regulation, vote or proceeding.

Proceedings
of the trustees
to be fairly en-
tered in a book

6. *And be it enacted by the authority aforesaid,* That all the proceedings of the trustees of each and every association, as aforesaid, shall, from time to time, be fairly entered in a book or books to be provided and kept for that purpose; which book or books, together with the common seal, and all moneys, charters, deeds, accounts and writings whatsoever, appertaining to the association, shall, upon the decease, resignation or removal of the former president, or other person having the custody of them, or any of them, be delivered to, or go over unto the next successor in office, to be kept and preserved for the use and benefit of the said association.

See supplement June 6, 1820.

FAY. 140.

AN ACT concerning the action of account.

Passed the 1st of December, 1794.

Executors may
have a writ of
account.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That from henceforth, executors shall have a writ of account, and the same action and process in the same writ, as the testator might have had, if he had lived.

Account may
be brought
against the ex-
ecutors of
guardians.

2. *And be it enacted by the authority aforesaid,* That actions of account shall and may be brought and maintained against the executors or administrators of every guardian, bailiff and receiver.

One joint ten-
ant or tenant
in common
may bring ac-
tion of ac-
count against
the other.

3. *And be it enacted by the authority aforesaid,* That actions of account shall and may be brought and maintained by one joint tenant or tenant in common, his or her executors or administrators, against the other, as bailiff, for receiving more than comes to his or her just share or proportion, and against the executor or administrator of such joint tenant, or tenant in common.

Proceedings in
actions of
account.

4. *And be it enacted by the authority aforesaid,* That where any person is or shall be bound or liable to account as guardian, bailiff, receiver, or otherwise, to another, and will not give account willingly, and the party, to whom such account ought to

1794.

be made, shall sue out a writ of account, if the person, against whom such writ is issued, being summoned, do not appear at the return of the writ, or if it be returned, that the defendant hath nothing, then the defendant shall be attached, by his or her body, to come and make his or her account; and when such accountant shall appear in court, and submit or be adjudged to account, auditors shall be assigned by the court to take his or her account, and if such accountant shall be found in arrears, and cannot pay the arrears, and the costs of suit forthwith, then a fieri facias de bonis et terris, or a capias ad satisfaciendum shall be awarded. And if such accountant shall neglect or refuse to account before the auditors, he or she shall be committed to gaol, there to be kept under safe custody until he or she shall satisfy the plaintiff of his or her demand, with costs. And further, if it shall be found, that there is a surplusage due, on such account, from the plaintiff to the defendant, then the defendant shall have judgment to recover such surplusage, with costs of suit, against the plaintiff, unless where the suit is brought by executors or administrators, in right of their testator or intestate; in which case, the defendant shall not recover costs against them; and the defendant shall or may have such execution for the same, as he or she might have had, if he or she had recovered such surplusage by action of debt. And moreover, if any sheriff or gaoler shall suffer any such prisoner to go out of prison, without the assent of the plaintiff, he shall be answerable to the plaintiff for the debt, or damages done to him or her by such accountant, according as it may be found by the country, and the party, at whose suit such prisoner was committed, shall have his or her recovery, by action of debt, or by bill or plaint, in any court of record.

Sheriff, who shall suffer prisoner to escape, to be answerable for the debt, or damages.

5. And be it enacted by the authority aforesaid, That the auditors appointed by the court, where any action of account shall be depending, shall be and hereby are empowered to administer an oath, and to examine the parties, on oath, touching the matters in question; and for their pains and trouble in auditing and taking such account, shall have such allowance as the court shall adjudge to be reasonable, to be paid by the party in whose favor the balance shall be found, and to be allowed to him or her in the costs to be taxed against the opposite party, where costs are recoverable.

Auditors may examine witnesses and parties on oath.

Compensation of auditors.

AN ACT to enable infants, who are seized or possessed of estates in trust, or by way of mortgage, to make conveyances of the same.

PAT. 141.

Passed the 1st of December, 1794.

WHEREAS many inconveniencies do and may arise by reason that persons, under the age of twenty-one years, having estates in lands, tenements and hereditaments, only in trust for others, or by way of mortgage, cannot, though by the direction of the cestui que trust, or mortgagor, convey any sure estate in any such lands, tenements or hereditaments, to any other person or persons; for remedy WHEREOF—

Preamble.

1794.

Infant-trustee
may, by direc-
tion of the
court of chan-
cery, convey
lands.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That* it shall and may be lawful to and for any such person or persons, under the age of twenty-one years, by the direction of the court of chancery, signified by an order made upon hearing all parties concerned, on the petition of the person or persons for whom such infant or infants shall be seized or possessed in trust, or of the mortgagor or mortgagors, or guardian or guardians of such infant or infants, or person or persons entitled to the moneys secured by or upon any lands, tenements or hereditaments, whereof any infant or infants are or shall be seized or possessed by way of mortgage, or of the person or persons entitled to the redemption thereof, to convey and assure any such lands, tenements or hereditaments, in such manner as the said court of chancery shall, by such order so to be obtained, direct, to any other person or persons; and such conveyance or assurance, so to be had and made as aforesaid, shall be as good and effectual in law, to all intents and purposes whatsoever, as if the said infant or infants were, at the time of making such conveyance or assurance, of the full age of twenty-one years.

Infant-trustee
may be com-
pelled to make
such convey-
ance.

2. *And be it further enacted by the authority aforesaid, That* all and every such infant or infants, being only trustee or trustees, mortgagee or mortgagees, as aforesaid, shall and may be compelled by such order, so as aforesaid to be obtained, to make such conveyance or conveyances, assurance or assurances, as aforesaid, in like manner as trustees or mortgagees of full age are compellable to convey or assign their trust estates or mortgages.

PAT. 141.

AN ACT for regulating references, and determining controversies by arbitration.

Passed the 2d of December, 1794.

Preamble.

WHEREAS it hath been found by experience, that references, made by rule of court, have contributed much to the advancement of justice and the ease of the people, especially where long and intricate accounts, which are most proper for deliberate examination, are the subject of discussion; in order, therefore, to promote trade, to facilitate the means of accommodation, to expedite the determination of controversies, and to render the awards of arbitrators the more effectual—

Persons may
agree that
their submis-
sion of the suit,
shall be made
a rule of court.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That* it shall and may be lawful for all persons who are desirous of ending, by arbitration, any controversy, suit, quarrel, or matter in contention, for which there is no other remedy but by personal action, or suit in equity, to agree, that their submission of the suit to the award or umpirage of any person or persons should be made a rule of any of the courts of record of this state, which the parties shall choose, and to insert such their agreement in their submission, or the condition of the bond, or promise, whereby

they oblige themselves respectively to submit to the award or umpirage of any person or persons; which agreement, being so made and inserted in their submission, or promise, or condition of their respective bonds, shall or may, upon producing an affidavit thereof, made by the witnesses thereunto, or any one of them, in the court of which the same is agreed to be made a rule, and reading and filing the said affidavit in court, be entered of record in such court, and a rule shall thereupon be made, by the said court, that the parties shall submit to, and finally be concluded by, the arbitration or umpirage which shall be made concerning them by the arbitrators or umpire, pursuant to such submission; and in case of disobedience to such arbitration or umpirage, the party refusing or neglecting to perform and execute the same, or any part thereof, shall be subject to all the penalties of contemning a rule of court, when he is a suitor or defendant in such court, and the court, on motion, shall issue process accordingly, which process shall not be stopped or delayed in its execution, by any order, rule, command or process of any other court, either of law or equity, unless it shall be made appear on oath or affirmation to such court, that the arbitrators or umpire misbehaved themselves, and that such award, arbitration or umpirage, was procured by corruption or other undue means.

2. *And be it enacted by the authority aforesaid,* That any arbitration or umpirage, procured by corruption or undue means, shall be judged and esteemed void and of none effect, and accordingly be set aside by any court of law or equity, so as complaint of such corruption or undue practice be made in the court, where the rule is made for submission to such arbitration or umpirage, before the last day of the next term after such arbitration or umpirage has been made and published to the parties.

3. *And be it enacted by the authority aforesaid,* That whenever a cause shall be referred, by rule of court, to referees, the report or award of such referees, or of the major part of them, if confirmed by the court, shall be final, and conclude the parties; and if any sum be thereby found for the plaintiff or plaintiffs, judgment shall be entered and execution issued for the same, with costs, if, by law, the plaintiff or plaintiffs would have recovered costs, had a verdict passed in the same cause for the sum so reported to be due; but if the referees, or the major part of them, report that there is not any thing due to the plaintiff or plaintiffs, and the report be confirmed, then judgment shall be entered against the plaintiff or plaintiffs, that he, she or they take nothing by his, her or their writ, bill or plaint, and the defendant or defendants shall, in such case, have judgment for and recover his, her or their costs against the plaintiff or plaintiffs, if, by law, the defendant or defendants would have been entitled to costs, had a verdict passed in the same cause for him, her or them; and if the referees, or the major part of them, report any sum to be due to the defendant or defendants, and the report be confirmed, then judgment shall be entered and execution issued against the plaintiff or plaintiffs, for the sum so reported to be due to such defendant or defendants, with costs, if, by law, the

1794.

In case of disobedience, the party to be in contempt.

Process not to be delayed, unless the arbitrators have misbehaved, or the award has been procured by corruption, or undue means.

Arbitration procured by corruption or undue means, shall be ineffectual and void.

Report of referees, under a rule of court, shall conclude the parties; on which judgment shall be entered and execution issued.

1794.

defendant or defendants would have been entitled to costs, had a verdict in the same cause passed against him, her or them.

Referees to take an oath before they act as such.

By whom to be administered.

Subpoenas to issue for witnesses, to whom the referees are to administer the usual oath.

See supplement, 10th of Feb. 1819.

Compensation of referees, what, and by whom paid.

Arbitrators to take an oath before they act as such.

4. *And be it enacted by the authority aforesaid*, That in every cause referred by rule of court, each referee shall, before he proceeds to the business of the reference, take an oath or affirmation, faithfully and fairly to hear and examine the cause in question, and make a just and true report, according to the best of his skill and understanding; which oath and affirmation any judge of any court of record, or any justice of the peace of this state, is hereby authorized and required to administer.

5. *And be it enacted by the authority aforesaid*, That in every cause, referred by rule of court, process of subpoena may issue out of such court to convene witnesses before the referees, and that the said witnesses shall be examined on oath or affirmation; which oath or affirmation the referees in the said cause are hereby authorized to administer; and that there shall be allowed to every such referee, one dollar for every day necessarily spent in the business of the reference, besides a reasonable allowance for his expenses, which, in the first instance, shall be paid by the prevailing party, and shall afterwards be allowed to such party in the taxation of costs, where costs are recoverable.

6. *And be it enacted by the authority aforesaid*, That, in cases of arbitration, every arbitrator shall, before he proceeds to the business submitted to him, take an oath or affirmation of the like nature with that herein before prescribed to be taken by referees, and to be administered in like manner.

PAT. 143.

AN ACT for the better regulation of proceedings upon writs of mandamus.

Passed the 2d of December, 1794.

Return to be made to the first writ of mandamus.

The proceedings on a writ of mandamus, when it is returned.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That where any writ of mandamus shall issue out of the supreme court, directed and delivered to any person or persons, who, by law, is or are required to make a return to such writ, such person or persons shall make his or their return to the first writ of mandamus.

2. *And be it enacted by the authority aforesaid*, That from and after the passing of this act, as often as any writ of mandamus shall issue out of the said supreme court, and a return shall be made thereunto, it shall and may be lawful to and for the person or persons, suing or prosecuting such writ of mandamus, to plead to or traverse all or any the material facts contained within the said return; to which the person or persons, making such return, shall reply, take issue, or demur; and such further proceedings, and in such manner, shall be had therein, for the determination thereof, as might have been had, if the person or persons, suing such writ, had brought his or their action on the case for a false return; and if any issue shall be joined on such

proceedings, the person or persons suing such writ, shall and may try the same in such place, as an issue joined in such action on the case should or might have been tried; and in case a verdict shall be found for the person or persons suing such writ, or judgment given for him or them upon a demurrer, or by nil dicit, or for want of a replication, or other pleading, he or they shall recover his or their damages and costs, in such manner as he or they might have done in such action on the case as aforesaid; and such damages and costs shall and may be levied by fieri facias, or capias ad satisfaciendum, as in other cases; and a peremptory writ of mandamus shall be granted, without delay, for him or them for whom judgment shall be given, as might have been, if such return had been adjudged insufficient, and in case judgment shall be given for the person or persons making such return to such writ, he or they shall recover his or their costs of suit, to be levied in manner aforesaid.

1794.

3. *Provided always, and be it further enacted by the authority aforesaid,* That if any damages shall be recovered, by virtue of this act, against any such person or persons, making such return to such writ as aforesaid, he or they shall not be liable to be sued in any other action or suit, for the making such return.

If damages be recovered against the person who makes the return, he shall not be liable to any other suit.

4. *And be it enacted by the authority aforesaid,* That it shall and may be lawful to and for the said supreme court to allow to such person or persons respectively, to whom any writ of mandamus shall be directed, or to the person or persons, who shall sue or prosecute the same, such convenient time respectively to make a return, plead, reply, rejoin or demur, as to the said court shall seem just and reasonable.

Court may allow convenient time to make return and plead.

AN ACT for the more easy redemption and foreclosure of mortgages. PAT. 144.

Passed the 3d of December, 1794.

Preamble.
WHEREAS mortgagees frequently bring actions of ejectment for the recovery of lands and estates to them mortgaged, and bring actions on bonds given by mortgagors to pay the money secured by such mortgages, and for performing the covenants therein contained, and likewise commence suits in equity to foreclose their mortgagors from redeeming their estates; and the courts of law, where such ejectments are brought, have not power to compel such mortgagees to accept the principal moneys and interests due on such mortgages, and costs, or to stay such mortgagees from proceeding to judgment and execution in such actions; but such mortgagors must have recourse to a court of equity for that purpose, in which case likewise such court does not give relief until the hearing of the cause: for remedy thereof, and to obviate all objections relating to the same—

1884.

In actions at law on mortgages, and no suit thereon in equity, a tender of the sum due, with costs in court, shall be full satisfaction and discharge; and thereupon the mortgagee shall be compelled to re-convey and surrender the premises.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from henceforth where any action shall be brought on any bond for payment of the money secured by such mortgage, or performance of the covenants therein contained, or where any action of ejectment shall be brought by any mortgagee or mortgagees, his, her, or their heirs, executors, administrators, or assigns, for the recovery of the possession of any mortgaged lands, tenements or hereditaments, and no suit shall be then depending in the court of equity, for or touching the foreclosing or redeeming of such mortgaged lands, tenements or hereditaments; if the person or persons, having right to redeem such mortgaged lands, tenements or hereditaments, and who shall appear and become defendant or defendants in such action, shall at any time, pending such action, pay unto such mortgagee or mortgagees, or, in case of his, her, or their refusal, shall bring into court, where such action shall be depending, all the principal moneys and interest due on such mortgage, and also all such costs as have been expended in any suit or suits at law or in equity, upon such mortgage, (such money for principal, interest and costs to be ascertained and computed by the court, where such action is or shall be depending, or by the proper officer, by such court to be appointed for that purpose,) the moneys, so paid by such mortgagee or mortgagees, or brought into such court, shall be deemed and taken to be in full satisfaction and discharge of such mortgage; and the court shall and may discharge every such mortgagor or defendant of and from the same accordingly; and shall and may, by rule or rules of the same court, compel such mortgagee or mortgagees, at the costs and charges of such mortgagor or mortgagors, to assign, surrender, or re-convey such mortgaged lands, tenements and hereditaments, and such estate and interest as such mortgagee or mortgagees have or hath therein, and deliver up all deeds, evidences, and writings, in his, her, or their custody, relating to the title of such mortgaged lands, tenements and hereditaments, unto such mortgagor or mortgagors, who shall have paid or brought such moneys into the court, his, her, or their heirs, executors or administrators, or to such other person or persons, as he, she, or they shall for that purpose, nominate or appoint.

On bills filed to foreclose the equity of redemption, the court may, at the request of the defendant, proceed to a decree before a regular hearing.

2. And be it enacted by the authority aforesaid, That from henceforth where any bill or bills, suit or suits, shall be filed, commenced, or brought in the court of equity of this state, by any person or persons having or claiming any estate, right or interest, in any lands, tenements or hereditaments, under or by virtue of any mortgage or mortgages thereof, to compel the defendant or defendants in such suit or suits, (having or claiming a right to redeem the same) to pay the plaintiff or plaintiffs in such suit or suits, the principal money and interest due on any such mortgage or mortgages, together with any sum or sums of money due on any incumbrances or specialty, charged, or chargeable on the equity of redemption thereof, and in default of payment thereof, to foreclose such defendant or defendants of his, her, or

their right or equity of redeeming such mortgaged lands, tenements or hereditaments; such court of equity, where such suit or suits shall be depending, upon application made to such court by the defendant or defendants in such suit, having a right to redeem such mortgaged lands, tenements or hereditaments, and upon his, her, or their admitting the right and title of the plaintiff or plaintiffs in such suit, may and shall, at any time or times before such suit or cause shall be brought to hearing, make such order or decree therein, as such court might or could have made therein, in case such suit or cause had then been regularly brought to hearing before such court; and all parties to such suit or suits shall be bound by such order or decree so made, to all intents and purposes, as if such order or decree had been made, by such court, at or subsequent to the hearing of such cause or suit.

1796.

3. *Provided always, and be it further enacted by the authority aforesaid,* That this act, or any thing herein contained, shall not extend to any case, where the person or persons, against whom the redemption is or shall be prayed, shall, by writing under his, her, or their hands, or the hand of his, her or their attorney, agent or solicitor, to be delivered, before the money shall be brought into such court at law, to the attorney or solicitor for the other side, insist, either that the party praying a redemption has not a right to redeem, or that the premises are chargeable with other or different principal sums than what appear on the face of the mortgage, or shall be admitted on the other side; nor to any case where the right of redemption to the mortgaged lands and premises in question in any cause or suit shall be controverted or questioned by or between different defendants in the same cause or suit; nor shall be any prejudice to any subsequent mortgagee, or mortgagees, or subsequent incumbrancer; any thing in this act to the contrary thereof in anywise notwithstanding.

This act not to affect a subsequent mortgage, nor to extend to cases, where the equity of redemption is controverted, or the money due is not adjusted.

AN ACT to prevent, in certain cases, the abatement of suits and reversal of judgments.

PAT. 146.

Passed the 17th of February, 1796.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That in all actions depending, or to be commenced, in any court of record of this state, if any plaintiff happen to die after an interlocutory judgment, and before a final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted, or maintained by the executor or administrators of such plaintiff; and if the defendant die after such interlocutory judgment, and before final judgment therein obtained, the said action shall not abate, if such action might be originally prosecuted, or maintained, against the executor or administrators of such defendant; and the plaintiff, or, if he or she be dead after such interlocutory judgment, his or her executor or administrators, shall and may have a scire facias

Actions not to abate, after interlocutory judgment, by the death of the plaintiff or defendant.

1795.

against the defendant, if living, after such interlocutory judgment; or if he or she died after, then against his or her executors or administrators, to shew cause why damages in such action should not be assessed and recovered by him, her or them; and if such defendant, his or her executors or administrators, shall appear at the return of such writ, and not shew or allege any matter sufficient to arrest the final judgment, or being returned, warned, or upon two writs of scire facias it be returned, that the defendant, his or her executors or administrators, had nothing whereby he, she or they might be summoned, or could not be found in the county, shall make default, that thereupon an assessment of damages shall be had, or a writ of inquiry of damages shall be awarded, which assessment being duly made, or writ of inquiry being duly executed and returned, judgment final shall be given for the said plaintiff, his or her executors or administrators, prosecuting such writ or writs of scire facias against such defendant, his or her executors or administrators, respectively.

Suit not to abate by the death of one of the plaintiffs or defendants, if the cause of action survive.

2. *And be it enacted by the authority aforesaid,* That if in any action or suit there be two or more plaintiffs or defendants, and one or more of them shall die, if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the writ or action shall not be thereby abated; but such death being suggested upon the record, the action shall proceed, at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.

Action not to abate, after issue joined, by the death of either party, if sustainable by or against the executors or administrators.

3. *And be it enacted by the authority aforesaid,* That in all actions depending, or to be commenced in any court of record of this state, if any plaintiff die after issue joined, and before final judgment, the said action shall not abate by reason thereof, if such action might be originally prosecuted or maintained by the executors or administrators of such plaintiff; and if the defendant die after issue joined, and before final judgment, the said action shall not abate, if such action might be originally prosecuted or maintained against the executors or administrators of such defendant; but the death of such plaintiff or defendant being suggested upon the record, and the names of the executors or administrators of such deceased plaintiff or defendant being entered upon the record, the action shall proceed to final judgment at the suit of the plaintiff; or if he or she die after issue joined, at the suit of his or her executors or administrators against the defendant; or if he or she die after issue joined, against his or her executors or administrators, respectively.

Suits in chancery not to abate by the death of one of the plaintiffs or defendants, if the cause of suit survive.

4. *And be it enacted by the authority aforesaid,* That if in a suit or action now depending, or hereafter to be brought in a court of chancery, there are, or shall be two or more plaintiffs or defendants, and one or more of them die, if the cause of such suit or action survive to the surviving plaintiff or plaintiffs, against the surviving defendant or defendants, such suit or action shall not be thereby abated; but such death being suggested, as shewn by affidavit, or otherwise, to the satisfaction of the court, such suit or action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.

5. *And be it enacted by the authority aforesaid,* That in every suit or action in the court of chancery, in which any bill is or shall be filed, and in which there are or shall be two or more plaintiffs or defendants, and any of them die, and the cause of action doth not survive, but other persons shall become parties in interest, in right or by the death of such deceased party, such suit shall, by reason of such death, be abated only with respect to such deceased party, and the surviving plaintiff or plaintiffs may proceed against the surviving defendant or defendants, without reviving the suit against the representatives of the deceased party, or any other, who may become interested by the death of such party; but in such case such representatives, or such person or persons, as shall become interested by the death of such party, shall not be bound by any order or decree in such cause, to which they are not made parties, and if the plaintiff or plaintiffs choose to make the representatives of the deceased party, or others, who may become interested by the death of such decedent, parties to such suit, no bill of revivor, or subpoena ad revivendum, shall be necessary; but the court shall and may, by rule or order, as often as there shall be occasion for it, direct the suit to stand revived, which rule or order shall be served on the clerk; and unless the representatives of such deceased party, or others, who may become interested by the death of such party, shall, within such time after such service as aforesaid, as the court shall limit and appoint, appear and put in their answer, or signify their disclaimer of the suit, and the matters in controversy therein, the plaintiff or plaintiffs may cause their appearance to be entered, and in such case the answer of the deceased party, if any there be, shall be deemed and taken as and for the answer of such representatives, or other person or persons interested by the death of such party. And further, that if any plaintiff or plaintiffs, in any such suit now depending or hereafter to be brought wherein the cause of action doth not survive as aforesaid, happen to die, pending such suit, the lawful representative or representatives of such deceased plaintiff or plaintiffs, or any other person or persons, interested by the death of such plaintiff or plaintiffs, shall and may, upon affidavit thereof by him, her or them, or any other person or persons, and on motion made in court, be, by the rule or order of the court, inserted as a complainant or complainants in the said suit, and be permitted to make such amendment in the bill or bills of complaint, as his, her, or their title or interest therein may require; to which amendment or amendments, the defendant or defendants shall be compellable, by rule or order of the said court, to answer, proceed to issue and examination of witnesses, and production of proofs, and all other proceedings shall be had thereon as in ordinary cases; and in case such person or persons shall not, within such time after the death of such plaintiff or plaintiffs, as the court shall limit and appoint, cause himself, herself or themselves to be entered as plaintiff or plaintiffs, in the room of such deceased plaintiff or plaintiffs, that then, and in every such case, the surviving plaintiff or plaintiffs may insert the representative or representatives of such deceased plaintiff or plaintiffs, or other person or persons

1765.

If in a suit in chancery by or against several persons, the cause of action shall not survive, then the suit to abate only as to the person deceased.

How the plaintiff may make the representatives of such deceased person, parties to the suit.

How the representatives of a deceased plaintiff may be made parties in such suit.

1705.

The death of either party, between verdict and judgment, not to be error.

interested by his, her or their death, as defendant or defendants in such suit, and proceed in the manner herein before directed in cases, where the lawful representative or representatives of a deceased defendant or defendants may be made party or parties.

6. *And be it enacted by the authority aforesaid*, That in all actions, real, personal or mixed, the death of either party, between the verdict and the judgment, shall not be alleged for error, so as such judgment be entered within two terms after such verdict.

The want of fifteen days between the teste and return of certain writs, not to be error.

7. *And whereas* suits, commenced by original writs, have been protracted and delayed, by reason of the necessity of having fifteen days, at the least, between the days of the teste and the days of the return of the writs used in personal actions, and in actions of ejectment for lands and tenements; for remedy whereof, *Be it enacted by the authority aforesaid*, That in all actions of debt, and all other personal actions whatsoever, and in all actions of ejectment for lands and tenements now depending, or which at any time hereafter shall be depending, by original writ, in any court of record, after any issue joined therein, to be tried by a jury, and also after any judgment had or obtained, or to be had or obtained in any such court, in any such action as aforesaid, there shall not need to be fifteen days between the teste-day and the day of the return of any writ or writs of venire facias, habeas corpora juratorum, or distringas juratores, or writs of fieri facias, or of capias ad satisfaciendum, and that the want of fifteen days between the teste-day and day of return of any such writ, shall not be, nor shall be assigned, taken or adjudged to be any matter or cause of error.

Part of a former act repealed.

8. *And be it enacted by the authority aforesaid*, That the sixth section of the act, entitled "An act to direct the mode of examination of witnesses in the court of chancery, and for other purposes therein mentioned," passed the twenty-second day of November, in the year of our Lord, one thousand seven hundred and ninety, be, and the same is hereby repealed; but such repeal shall not affect any rule, order or proceeding heretofore made or had in any suit, in virtue and pursuance of such section.

PAT. 146.

AN ACT concerning tenures.

Passed the 18th of February, 1795.

Freeholders may alien their lands.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That it shall, for ever hereafter, be lawful for every freeholder to give, sell or alien the lands or tenements whereof he or she is, or at any time hereafter shall be, seized in fee-simple, or any part thereof, at his or her pleasure, so always that the purchaser shall hold the lands or tenements, so given, sold or aliened, of the chief lord, if there be any, of the same fee, by the same services and customs, by which the person or persons making such gift, sale, or alienation, before held the same lands or tenements; and if such freeholder give, sell, or alien a part only of such lands or

tenements to any, the feoffee or alienee shall immediately hold such part of the chief lord, and shall be forthwith charged with the services for so much as pertains, or ought to pertain, to the said chief lord, for the same parcel, according to the quantity of the land or tenement so given, sold, or aliened; and so, in this case, the same part of the service shall remain to the lord to be taken by the hands of the feoffee or alienee, for which he or she ought to be attendant and answerable to the same chief lord, according to the quantity of the land or tenement given, sold or aliened, for the parcel of the service so due.

2. *And be it enacted by the authority aforesaid,* That all wardships, liveries, primer seisins, and ousterlemains, values, and forfeitures of marriage, by reason of any tenure by knights service, and all mean rates, and all other gifts, grants and charges incident or arising for, or by reason of wardships, liveries, primer seisins, or ousterlemains, shall be, and hereby are declared to be taken away and discharged, from the twelfth day of March, in the year of our Lord, one thousand six hundred and sixty-four; and that all fines for alienations, seizures, and pardons for alienations, tenure by homage, and all charges incident or arising for, or by reason of wardship, livery, primer seisin, ousterlemain, or tenure by knights service, escuage, and also relief and aid pur file marrier, and pur fair fitz chivalier, and all other charges incident thereunto, shall be, and hereby are likewise declared to be taken away and discharged, from the said twelfth day of March, in the year of our Lord, one thousand, six hundred and sixty-four; and that all tenures by knights service, and by knights service in capite, and by socage in capite, and the fruits and consequences thereof happened, or which shall or may hereafter happen, or arise thereupon or thereby, shall be, and hereby are declared to be taken away, discharged, and for ever abolished.

3. *And be it enacted by the authority aforesaid,* That all tenures of any honors, manors, lands, tenements, or hereditaments, or of any estate of inheritance at the common law, held either of the king, or of any other person or persons, bodies politic or corporate, at any time before the fourth day of July, in the year of our Lord, one thousand seven hundred and seventy-six, are hereby declared to be turned into free and common socage, to all intents and purposes, and shall be construed, adjudged and deemed to be free and common socage from the time of the creation thereof, and for ever thereafter; and that the same honors, manors, lands, tenements and hereditaments, shall for ever hereafter stand and be discharged of all tenure by homage, escuage, voyages royal, and charges for the same, wardship incident to tenure by knights service, and values and forfeitures of marriage, and all other charges incident to tenure by knights service, and of and from relief, aid pur file marrier, and aid pur fair fitz chivalier.

4. *And be it enacted by the authority aforesaid,* That all conveyances and devises of any manors, lands, tenements or hereditaments, at any time heretofore made, shall be expounded to be of such effect, as if the same manors, lands, tenements or

1785.

If a freeholder alien part only of his lands, the alienee shall hold such part of the chief lord of the fee.

All wardships, liveries, &c. taken away and discharged.

Fines for alienation, seizures, &c. taken away and discharged.

Tenures by knight service, abolished.

All tenures of any estate of inheritance, before the 4th of July, 1776, turned into free and common socage.

Antecedent conveyances and devises of lands, to operate in free and common socage.

1795.

hereditaments, had been then held, and continued to be, holden in free and common socage only.

This act not to take away rents certain or incident to common socage.

5. *Provided always, and be it further enacted by the authority aforesaid, That this act, or any thing herein contained, shall not take away, nor be construed to take away or discharge, any rent certain, or other services incident or belonging to tenure in common socage, due, or to grow due to this state, or any mean lord or other private person, or the fealty or distresses incident thereunto.*

Tenure of lands, which have been, or shall be granted by this state, to be allodial, and not feudal.

6. *And be it enacted by the authority aforesaid, That the tenure upon all gifts, grants or conveyances, heretofore made or hereafter to be made, of any manors, lands, tenements or hereditaments, of any estate of inheritance, by any letters patent under the great seal of this state, or in any other manner by this state, or the legislature thereof, or by the commissioners or agents of forfeited estates, or other lawful and competent authority under this state, or the legislature thereof, shall be and remain allodial, and not feudal; and shall for ever hereafter be taken and adjudged to be and continue in free and pure allodium only, and shall be for ever discharged of all wardship, value and forfeiture of marriage, livery, primer seisin, ousterlemain, relief, aid payable marrier, aid pur fair fitz chivalier, rents, renders, fealty, and all other services whatsoever.*

PAT. 149.

AN ACT concerning costs.

Passed the 18th of February, 1795.

A plaintiff, who shall recover damages in an action, shall recover costs.

1. *BE IT ENACTED by the Council and General Assembly this state, and it is hereby enacted by the authority of the same, That if any person or persons shall commence or sue, in any court of record within this state, any action, bill, or plaint of debt, covenant, trespass upon the case, detinue, account, or upon any statute, for any offence or wrong personal, immediately supposed to be done to the plaintiff or plaintiffs, trespass, ejectment, or any other action whatsoever, real, personal, or mixed; and if plaintiff or plaintiffs, demandant or demandants, shall, by verdict or otherwise, recover damages in any such action, bill, or plaint, that then the plaintiff or plaintiffs, demandant or demandants, in every such action, bill, or plaint, shall have judgment to recover his, her, or their costs, against every such defendant or defendants, to be assessed and taxed by the court, or any judge or justice thereof, in which any such action, bill, or plaint, shall be commenced, sued, or taken; and shall be levied and recovered together with the debt or damages aforesaid, against the body or bodies, or goods and chattels, lands and tenements, of the defendant or defendants: *Provided, That such costs, so assessed and taxed, shall not exceed the fees, which, by law, are, or may be stated and allowed.**

2. *And be it enacted by the authority aforesaid, That if any person or persons shall commence or sue, in any court of record*

within this state, any action, bill, or plaint whatsoever, as aforesaid, wherein the plaintiff or plaintiffs, demandant or demandants, might have costs, in case judgment should be given for him, her, or them; and the plaintiff or plaintiffs, demandant or demandants, in any such action, bill, or plaint, after appearance of the defendant or defendants, be non-prossed, or nonsuited, or that any verdict happen to pass by any lawful trial against the plaintiff or plaintiffs, demandant or demandants, in any such action, bill, or plaint, that then the defendant or defendants, in every such action, bill, or plaint, shall have judgment to recover his costs against every such plaintiff or plaintiffs, (except against executors or administrators prosecuting in the right of their testators or intestates) demandant or demandants, to be assessed and taxed in manner aforesaid, by the court, or any judge or justice of the court where any such action, bill, or plaint shall be commenced, sued, or taken; and also, that such defendant or defendants shall have such process and execution for the recovery of his, her, or their costs, against the said plaintiff or plaintiffs, demandant or demandants, as the same plaintiff or plaintiffs, demandant or demandants, should or might have had against the defendant or defendants, if judgment had been given for the said plaintiff or plaintiffs, demandant or demandants, in any such action, bill, or plaint:

1795.

The defendant if he prevail, shall have costs in all cases, where the plaintiff would have been entitled to them.

3. *And be it enacted by the authority aforesaid,* That every avowant, and other person or persons, that make avowry, justification or cognizance, as bailiff or servant to any person or persons, in any replevin or second deliverance, if the same avowry, cognizance, or justification be found for them, or the plaintiff or plaintiffs in the same be nonsuit, or otherwise barred, that then they shall recover their damages and costs against the said plaintiff or plaintiffs, as the same plaintiff or plaintiffs should have done, if he, she, or they had recovered in the same replevin or second deliverance, in case the same had been found against the defendant or defendants.

Avowants in replevin to recover costs

4, 5, 6. Repealed by act, February 15th, 1820.

7. *And be it enacted by the authority aforesaid,* That in all suits upon any writ or writs of scire facias, and suits upon prohibitions, the plaintiff obtaining judgment, or any award of execution, after plea pleaded, or demurrer joined therein, shall likewise recover his costs of suit; and if the plaintiff shall become nonsuit, or suffer a discontinuance, or a verdict shall pass against him, the defendant shall recover his costs, and have execution for the same, in the manner aforesaid.

Costs given on writs of scire facias and prohibitions.

Plaintiff to pay costs if he discontinue, be nonsuit, or a verdict against him.

8. *And be it enacted by the authority aforesaid,* That where several persons are or shall be made defendants to any action, bill, or plaint of trespass, assault, false imprisonment, trespass on the case, replevin, or ejectment, and any one or more of them shall be, upon the trial thereof, acquitted by verdict, every person, so acquitted, shall have and recover his or her costs of suit, in like manner as if a verdict had been given against the plaintiff or plaintiffs, and acquitted all the defendants; unless the judge or judges, before whom such cause shall be tried, shall, immedi-

In what cases some of the defendants, when acquitted, shall have costs.

1795.

ately after the trial thereof, in open court, certify upon the record, or in the minutes of the court, under his or their hands, that there was a reasonable cause for the making such person or persons a defendant or defendants to such action, bill, or plaint.

If, in demurrer, judgment be given against the plaintiff, or on error, it be affirmed, he shall pay costs.

9. *And be it enacted by the authority aforesaid,* That if any person or persons shall commence or prosecute, in any court of record, any action, plaint, or suit, wherein, upon any demurrer, either by plaintiff or defendant, demandant or tenant, judgment shall be given by the court, against such plaintiff or demandant; or if at any time after judgment given for the defendant or tenant, in any such action, plaint, or suit, the plaintiff or demandant shall sue any writ or writs of error, to annul the said judgment, and the said judgment shall afterwards be affirmed to be good, or the said writ of error shall be discontinued, or the plaintiff shall be nonsuit therein, the defendant or tenant in every such action, plaint, suit, or writ of error, shall have judgment to recover his costs against every such plaintiff or plaintiffs, demandant or demandants, and have execution for the same, in like manner as aforesaid.

Costs given on a writ of error, if it be discontinued, or judgment be affirmed, or the plaintiff be nonsuited.

10. *And be it enacted by the authority aforesaid,* That if any defendant or defendants, tenant or tenants, or any other person or persons, who shall be bound by any judgment obtained in any court of record, shall sue, either before or after execution had, any writ of error, to reverse any such judgment, then if the same judgment be affirmed good, in the said writ of error, and not erroneous, or if the said writ be discontinued in default of the party, or if any person or persons, who shall sue any writ of error, be nonsuited in the same, the said person or persons, against whom the said writ of error is or shall be so sued, shall recover his, her, or their costs, against the person or persons suing the same, to be taxed by the court, or any judge or justice of the court, before whom the said writ of error is returnable, and have execution for the same, in manner aforesaid.

On affirmance of judgment in error, after verdict, defendant in error shall recover double costs.

11. *And be it enacted by the authority aforesaid,* That if any person or persons shall sue or prosecute any writ or writs of error, for reversal of any judgment whatsoever, given after any verdict in any court of record of this state, and the judgment shall afterwards be affirmed, then such person or persons shall pay unto the defendant or defendants, in the said writ or writs of error, his, her, or their double costs, to be assessed and taxed by the court, or any judge or justice of the court, where such writ shall be depending, and be recovered by execution, in like manner as aforesaid.

On quashing a writ of error, defendant shall recover costs.

12. *And be it enacted by the authority aforesaid,* That upon the quashing any writ of error, for variance from the original record, or other defect, the defendant or defendants, in such writ of error, shall recover against the plaintiff or plaintiffs, issuing out such writ, his, her, or their costs, as he, she, or they should have had, if the judgment had been affirmed, and to be recovered in the same manner.

13. *And be it enacted by the authority aforesaid,* That no writ, commonly called *copies pro fine*, in any suit or action of trespass, ejectment, assault and false imprisonment, in any court of record, shall be sued out or prosecuted against any defendant or defendants, or any further process thereupon; but the same fines are, and shall hereby be remitted and for ever discharged.

1785.

Capias pro fine abolished in certain cases.

14. *And be it enacted by the authority aforesaid,* That upon the complainant's dismissing his own bill in equity, or the defendant's dismissing the same, for want of prosecution, the complainant in the suit shall pay to the defendant or defendants, his, her, or their full costs, to be taxed by a master.

In equity, complainant shall pay costs, when his bill is dismissed.

15. *And be it enacted by the authority aforesaid,* That in all suits commenced, or to be commenced upon any obligation or specialty, or contract, express or implied, made or had, or to be made or had, to the state of New-Jersey, or to the governor thereof, or to any person or persons, to or for the use of the state of New-Jersey, then, and in every such case, the state of New-Jersey, or other plaintiff or plaintiffs, shall have and recover the debt and costs, and damages, as any other common person may do in suits for his or her debts.

Defendants to pay costs in suits for debts due to the state.

16. *And be it enacted by the authority aforesaid,* That where any suit or action is or shall be commenced, sued, or prosecuted, by and in the name of any person or persons, for any debt, sum, or sums of money, due, owing, or belonging to this state, and the plaintiff or plaintiffs shall be nonsuited therein; or if a verdict shall pass against such plaintiff or plaintiffs, the defendant or defendants shall not recover any costs against such plaintiff or plaintiffs.

Defendants shall not recover costs in suits brought for debts due to the state.

17. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this act contained shall extend to any popular action, nor to any action to be prosecuted by any person in behalf of himself and this state, upon any penal statute, nor to any indictment, presentment, or inquisition.

This act not to extend to popular actions, indictments, presentments, or inquisitions.

See supplement, 15th February, 1820.

AN ACT for the maintenance of bastard children.

PAT. 152.

Passed the 26th of February, 1796.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That any two justices of the peace of any county, within which any bastard shall be born, upon examination of the cause and circumstance, shall and may, at their discretion, take order for the better relief of every township, in which such bastard shall be born, in part or in all; and also, shall and may, at like discretion, take order for the keeping of every such bastard child, by charging the mother, or reputed father, with the payment of money weekly, or other sustenance for the relief of such child, as they shall think meet and convenient; and if, after the same or-

Two justices may take order for maintenance of bastard children;

1795.

and if mother or reputed father disobey it, may commit him or her unless surety be given.

der by them subscribed, under their hands, the mother, or reputed father, upon notice thereof, shall not, for his or her part, observe and perform the said order, that then every such party, so making default, in not performing the said order, shall be committed to the house of correction, or, for want thereof, to the common gaol of such county, there to remain without bail or mainprise, except he or she shall put in sufficient surety to perform the said order, or else personally to appear at the next court of general quarter-sessions, or of general sessions of the peace, to be holden in and for the county, where such order shall be taken, and also, to abide such order as the said justices of the peace, or the major part of them, in their said sessions, shall take in that behalf, if they then and there shall take any; and if, at the said sessions, the said justices shall take no other order, then to abide and perform the order before made as aforesaid.

Examination, on oath, of the woman, to be taken in writing before one or more justices;

who may issue warrants against the reputed father and commit him, unless he give security to indemnify the township, or to appear at the next court of sessions.

2. *And be it enacted by the authority aforesaid,* That if any woman shall be delivered of a bastard child, which shall be chargeable, or likely to become chargeable to any township, or shall declare herself to be with child, and that such child is likely to be born a bastard, and to be chargeable to any township, and shall, in either of such cases, in an examination to be taken in writing, upon oath, before any one or more justice or justices of the peace of any county, wherein such township shall lie, charge any person with having gotten her with child, it shall and may be lawful to and for such justice or justices, upon application made to him or them, by the overseers of the poor of such township, or persons acting as such, or by any one of them, to issue his or their warrant or warrants for the immediate apprehension of such person so charged as aforesaid, and for bringing him before such justice or justices, or before any other of the justices of the peace of such county; and the justice or justices, before whom such person shall be brought, is and are hereby authorized and required to commit the person, so charged as aforesaid, to the house of correction, or common gaol of such county, unless he shall give security to indemnify such township, or shall enter into recognizance, with sufficient surety, with condition to appear at the next court of general quarter-sessions, or of general sessions of the peace, to be holden for such county, and abide and perform such order or orders as shall be made in pursuance of this act.

In what cases the reputed father shall be discharged.

3. *Provided nevertheless, and be it further enacted by the authority aforesaid,* That if the woman, so charging any person as aforesaid, shall happen to die, or be married, before she shall be delivered, or if she shall miscarry of such child, or shall appear not to have been with child at the time of her examination, then, and in any of the above cases, such person shall at the next court of general quarter-sessions, or of general sessions of the peace, to be holden for such county, be discharged from his recognizance, or immediately released out of custody, by warrant, under the hand and seal, or hands and seals, of any one or more justice or justices of the peace of such county.

4. *Provided also, and be it further enacted by the authority aforesaid,* That upon application made by any person, who shall be committed to any gaol or house of correction by virtue of this act, or by any person in his behalf, to any one or more justice or justices of such county, such justice or justices is and are hereby authorized and required to summon the overseer or overseers of the poor of the township to appear before him or them, at a time and place to be mentioned in such summons, to shew cause why such person should not be discharged, and if no order shall appear to have been made, in pursuance of this act, within six weeks after such woman shall have been delivered, such justice or justices shall and may discharge him from his imprisonment in such gaol or house of correction, to which he shall have been committed.

5. *And whereas* the putative father and lewd mother of bastard children often run out of the township, and sometimes out of the county, and leave the said bastard children a charge upon the township, where they are born, or legally settled, although such putative father or mother have estate sufficient to support such children, and discharge the township; *Be it therefore enacted by the authority aforesaid,* That it shall and may be lawful for the overseers of the poor of such township, where any bastard child shall be born or settled, to apply to any two justices of the peace of the county, where the estate, real or personal, or any part thereof, of such putative father or lewd mother may be, and, by warrant or warrants, under the hands and seals of the said two justices, who are hereby authorized and required to issue the same, to seize and take the goods and chattels, and to let out and receive the annual rents and profits of the lands and tenements of such putative father or lewd mother, so absconding as aforesaid, for and towards the sustenance, bringing up and education of such bastard child, so left as aforesaid; and as soon as the said seizure shall be allowed of and confirmed by the justices, in their general quarter-sessions, or general sessions of the peace, it shall and may be lawful for the overseers of the poor of such township, from time to time, and as often as the case may require, to sell and dispose of so much of the said goods and chattels, at public vendue, to the highest bidder, and to receive the said rents and profits, or so much thereof as shall be ordered by the said sessions, and to apply the money arising therefrom towards the sustenance, bringing up and education of such bastard child, so left as aforesaid: *And further,* That the said overseers of the poor shall be accountable to the justices of the peace, in their said general quarter-sessions, or general sessions, for all such sum or sums of money, as shall or may arise by every such sale or sales, or be by them received for the rents and profits of such lands or tenements.

6. *And be it enacted by the authority aforesaid,* That if any person or persons shall be sued for any matter or thing, which he or they shall do in execution of this act, he or they may plead the general issue, and give the special matter in evidence; and if a verdict shall pass for the defendant or defendants, or if the

1795.

If no order of maintenance be made in six weeks after her delivery, the reputed father may be discharged.

The goods of the father and mother of an illegitimate child to be sold, and the rents of their lands to be received, and applied to the maintenance and education of such child.

Overseers to be accountable to the quarter-sessions for the moneys, which they receive.

If any person be sued for executing this act, he may plead the general issue, &c. and, if acquit-

1795.

ted, shall recover treble costs.

The term "township," to comprehend city, precinct, &c.

plaintiff shall be nonsuited, or discontinue his suit, the defendant or defendants shall recover treble costs, and shall have the like remedy for the same, as any defendant hath in other cases by law.

7. *And be it enacted by the authority aforesaid,* That the term "township," made use of in this act, shall be descriptive or equivalent to, and be understood to comprehend city, town-corporate, borough, township, precinct, and place, respectively.

Page 153.

AN ACT concerning executors, and the administration, and distribution of intestates' estates.

Passed the 2d of March, 1796.

Executors and administrators may have actions for taking away the goods of their testator or intestate.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That executors and administrators shall and may have an action for a trespass done to their testator or intestate, as of the goods and chattels of the same testator or intestate, carried away in his or her life-time, against the trespassers, and recover their damages, in like manner as the person, whose executors or administrators they be, should have had, if he or she were living.

Executors and administrators liable to actions for goods taken or converted by their testator or intestate.

2. *And be it enacted by the authority aforesaid,* That when any testator or intestate shall, in his or her life-time, have taken or carried away, or converted to his or her use, the goods and chattels of any person or persons, such person or persons, his or her executors or administrators shall have and maintain the same action against the executors or administrators of such testator or intestate, as he, she, or they might have had or maintained against such testator or intestate, and shall have the like remedy at law or in process for the damages recovered in such action, as are now had and allowed in other actions against executors or administrators.

Executors and administrators of executors or administrators liable for waste.

3. *And be it enacted by the authority aforesaid,* That all and every the executors and administrators of any person or person who, as executor or executors, either of right, or in his, her, their own wrong, or as administrator or administrators, hath or have wasted or converted, or hereafter shall waste or convert the goods, chattels, estate, or assets of any person deceased, to his, her, or their own use, shall be liable and chargeable, in the same manner as his, her, or their testator or intestate would have been if living.

Executors of executors to have actions for debts, &c. of the first testator, and be amenable to others.

4. *And be it enacted by the authority aforesaid,* That executors of executors shall have actions of debt, account, and of goods carried away of the first testator, and execution of judgments obtained by, or recognizances made to the first testator, in a court of record, in the same manner as the first testator should have had, if he were in life, as well of actions of the time past of the time to come; and that the same executors of executors shall answer to others, of as much as they have recovered of

goods of the first testator, as the first executors should do if they were in life.

1795.

5. *And be it enacted by the authority aforesaid,* That where any judgment hath been, or shall be had by or in the name of any executor or administrator; in such case an administrator de bonis non may sue forth a scire facias, and take execution upon such judgment.

Administrator de bonis non may have a scire facias.

6. *And be it enacted by the authority aforesaid,* That in actions against divers executors, all the same executors shall be considered as one person, representing the person of the testator; and such of the executors, as the sheriff shall return, "summoned," on the summons, or "cepi corpus," or "corpora," on the capias ad respondendum, shall answer to the plaintiff or plaintiffs; and in case judgment shall pass for the plaintiff or plaintiffs, then such plaintiff or plaintiffs shall have his, her, or their judgment and execution against such of the executors, as the sheriff shall have returned in manner aforesaid, and against all others named in the writ, of the goods and chattels of the testator, as well as if they had all been summoned, or taken, or had appeared.

All the executors shall be considered as one person, in suits brought against them, and such of them as are summoned or taken shall answer to the plaintiff.

7. *And be it enacted by the authority aforesaid,* That if any person die intestate, or if the executors named in any testament renounce the executorship, or refuse or neglect, for the space of forty days after the death of the testator, to prove such testament, then administration of the goods, chattels, and credits of such intestate, or of such testator, with the testament annexed, shall be committed or granted to the widow, or the next of kin of such intestate or testator, or to some of them, if they or any of them will accept the same; and if none of them will accept thereof, then to such other proper person or persons, as will accept the same.

To whom the administration of estates shall be committed.

8. *And be it enacted by the authority aforesaid,* That all administrators, of whatever kind or description they may be, shall have actions to demand and recover, as executors, the debts due to the person deceased, and shall answer to others, to whom such deceased person was holden and bound, in the same manner as executors shall answer, and shall be accountable as executors be, in case of testament, as well of the time past as of the time to come.

Administrators shall recover and be amenable as executors.

9. *And whereas* it is sometimes practised to the defrauding of creditors, that such persons as are to have the administration of the goods of others dying intestate committed to them, if they require it, will not accept the same, but suffer or procure the administration to be granted to some other of mean estate and indigent circumstances, from whom themselves, or others, by their means, do take deeds of gifts, and authorities by letters of attorney, whereby they obtain the estate of the intestate into their hands, and yet stand not subject to pay any debts owing by the same intestate, and so the creditors, for want of knowledge of the place of habitation of the administrator, cannot arrest or sue him or her; and if they happen to find him or her out, yet, for want of ability in him or her to satisfy, of his or her own goods,

1795.

What persons through fraud, shall be charged as executors in their own wrong.

But such persons to be allowed just debts and lawful payments.

Inventories, by whom, and how to be taken, and where to be deposited, and filed.

the value of that which he or she hath conveyed away or wasted of the intestate's goods, or released of his or her debts, the creditors cannot have or recover their just debts and demands; therefore, *Be it enacted by the authority aforesaid*, That all and every person and persons, who shall obtain, receive, and have any goods or debts of any person dying intestate, or a release or other discharge of any debt or duty that belonged to the intestate, upon any fraud as is aforesaid, or without such valuable consideration, as shall amount to the value of the same goods or debts, or near thereabouts, (except it be in, or towards satisfaction of some just debt, of the value of the same goods or debts, to him or her owing by the intestate; at the time of his or her decease) shall be charged and chargeable as executor of his or her own wrong, and so far only as all such goods and debts, coming to his or her hands, or whereof he or she is released or discharged by such administrator, will satisfy; deducting, nevertheless, to and for himself, allowance of all just debts, upon good consideration, and without fraud, owing to him or her by the intestate, at the time of his or her decease, and all other payments made by him or her, which lawful executors or administrators may and ought to have and pay by the laws of this state.

10. *And be it enacted by the authority aforesaid*, That the executor and executors named by the testator, or person deceased, or such other person or persons, to whom administration hath been or shall be committed, where any person hath died or shall die intestate, or by way of intestate, calling, or taking to him, her, or them, at least two reputable disinterested freeholders; and in their presence, and by their discretion, shall make, or cause to be made, a true and perfect inventory of all the goods, chattels, and credits, as well moveable as not moveable, whatsoever, that were of the person so deceased, and the same shall, by the said executor or executors, administrator or administrators, be presented and delivered to the surrogate, before whom the testament of such person, so dying, was proved, or administration committed, upon the oath or affirmation of such executor or executors, administrator or administrators, to be taken before the said surrogate, that the same inventory is just and true, and also upon the oath or affirmation, to be taken as aforesaid, of the said persons or appraisers, or one of them, in whose presence the said inventory was made, and by whom the goods, chattels, and credits, therein specified, were appraised, that the same were appraised, according to their just and true respective rates and values, after the best of his or their (as the case may be) judgment and understanding; and in case but one appraiser is sworn or affirmed, the following words shall be added, that the other appraiser or appraisers, was or were present at the same time, and consented in all things to the doing thereof; on which inventory a copy of the said oaths or affirmations shall be, by the said surrogate, endorsed; which said inventory, so taken, appraised, and sworn or affirmed to, as aforesaid, shall be deposited in the registry of the prerogative court, there to remain filed.

11. *And be it enacted by the authority aforesaid*, That the sur-

rogates of the respective counties of this state, and every of them, for the time being, shall and may, upon their respective granting and committing of administration of the goods of persons dying intestate, take of the respective person or persons, to whom such administration shall be committed, except where administration shall be granted to a husband, of the goods, chattels, and credits of his wife, sufficient bonds, with two or more able sureties, to the ordinary or surrogate-general of the state, in such penalty as the said surrogate shall think reasonable, respect being had to the value of the estate, with condition in form and manner following, to wit:

1795.

Persons to whom administration shall be granted, to execute bonds, with sureties.

The condition of this obligation is such, That if the above bound A. B. administrator of all and singular the goods, chattels, and credits of C. D., deceased, do make or cause to be made, a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of the said A. B. or into the hands or possession of any other person or persons for the said A. B., and the same so made do exhibit, or cause to be exhibited into the registry of the prerogative court, in the secretary's office of this state, at or before the expiration of six calendar months, from the date of the above written obligation, and the same goods, chattels, and credits, and all other goods, chattels, and credits of the said deceased, at the time of death, which at any time after shall come to the hands or possession of the said A. B. or into the hands or possession of any other person or persons for the said A. B. do well and truly administer, according to law; and further, do make, or cause to be made, a just and true account of administration, within twelve calendar months from the date of the above written obligation; and all the rest and residue of the said goods, chattels, and credits, which shall be found remaining upon the account of the said administration, the same being first examined and allowed of by the judges of the orphans' court of the county, or other competent authority, shall deliver and pay unto such person or persons, respectively, as is, are, or shall, by law, be entitled to receive the same. And if it shall hereafter appear, that any last will and testament was made by the said deceased, and the executor or executors therein named, or any other person or persons, do exhibit the same into the said prerogative court, making request to have it allowed and approved; if the said A. B., being thereunto required, do render and deliver the said letters of administration, (approbation of such testament being first had and made) to the said court; then the above obligation to be void and of none effect, or else to remain in full force and virtue.

Condition of administration bond.

And it is hereby declared, That the like bonds, with conditions suited to the nature of the respective cases, shall be given by administrators durante minore etate, durante absentia, pendente lite, cum testamento annexo, or by whatever other name or description they may be known and distinguished.

Other administrators of whatever description, to give like bonds

12. *And be enacted by the authority aforesaid,* That all administration bonds, given in pursuance of this act, shall be good to

Administration bonds how to be pro-

1795.

ceded upon
in case of for-
feiture.

Orphans' court
to direct a dis-
tribution of the
estate, among
the next of kin
to the intes-
tate.

all intents and purposes, and pleadable in any court of justice. And in case any such bonds shall become forfeited, it shall and may be lawful for the ordinary or surrogate-general, to cause the same to be prosecuted in any court of record, at the request of any party grieved by such forfeiture; and the moneys recovered upon such bond shall be applied towards making good the damages sustained by the not performing the said condition, in such manner as the judge of the prerogative court shall, by his sentence or decree, direct. *And further*, That it shall and may be lawful to and for the judges of the orphans' court, of the respective counties of this state, after such administrators shall have legally accounted for and touching the goods, chattels, and credits of the person so deceased, to order a just and equal distribution of what shall remain clear, after debts, funeral charges, and just expenses of every sort, first allowed and deducted, amongst the wife and children, or children's children, if any such there be, or otherwise to the next of kindred to the intestate, in equal degree, or legally representing their stocks, each according to his or her respective right, pursuant to the laws in such cases, and the rules and limitations herein after set down; and the same distribution to decree and settle; and the persons entitled to such distribution shall have their remedy at law, in case of non-payment, for the recovery of the same, against the executor or executors, administrator or administrators, so accounting; saving to every one, supposing him, her, or themselves aggrieved, his, her, and their right of appeal.

How, and to
whom such
distribution
shall be made.

13. *And be it further enacted*, That the whole surplusage of the goods, chattels, and personal estate of every person dying intestate, shall be distributed in manner following; that is to say, one-third part of the said surplusage to the widow of the intestate, and all the residue, by equal portions, to and among the children of such intestate, and such persons as legally represent such children, in case any of the said children be then dead, other than such child or children, who shall have any estate by the settlement of the intestate, or shall be advanced by the intestate, in his life-time, by portion or portions equal to the share, which shall, by such distribution, be allotted to the other children, to whom such distribution is to be made; and in case any child shall have any estate by settlement from the said intestate, or shall be advanced by the said intestate, in his life-time, by portion not equal to the share which will be due to the other children, by such distribution as aforesaid, then so much of the surplusage of the estate of such intestate shall be distributed to such child or children, as shall have any land by settlement from the intestate, or were advanced in the life-time of the intestate, as shall make the estate of all the said children to be equal, as near as can be estimated. And in case there be no children, nor any legal representatives of them, then one moiety of the said estate shall be allotted to the widow of the said intestate, and the residue of the said estate shall be distributed equally to every of the next of kindred of the intestate, who are in equal degree, and those who represent them; *Provided*, That no representa-

If no child,
then the wi-
dow to have
a moiety.

If no widow,
then the chil-

tion shall be admitted among collaterals after brothers' and sisters' children. And in case there be no widow, then all the said estate to be distributed equally to and among the children; and in case there be no child, then to the next of kindred, in equal degree, of or unto the intestate, and their legal representatives as aforesaid, and in no other manner whatsoever.

1795.

dren to have the whole estate.

14. *And be it enacted by the authority aforesaid,* That if, after the death of a father, any of his children shall die intestate, without wife or children, in the life-time of the mother, every brother and sister, and the representatives of them, shall have an equal share with her; any thing in this act, or any law to the contrary, notwithstanding.

When the estate of a child shall be divided among the mother, brothers, and sisters.

15. *And be it enacted by the authority aforesaid,* That neither this act, nor any thing herein contained, respecting the distribution of intestates' estates, shall be construed to extend to the estates of femes covert, who shall die intestate; but that their husbands may demand and have administration of their rights, credits, and other personal estates, and recover and enjoy the same, as fully as they might have done before the passing of this act.

This act not to extend to the estates of feme covert, dying intestate.

16. *And, to the end that a due regard be had to creditors, Be it enacted by the authority aforesaid,* That no distribution of the goods, chattels and credits of any person dying intestate shall be made until one year be fully expired after granting administration thereof.

One year to elapse before distribution.

17. *And be it further enacted by the authority aforesaid,* That every person, to whom any distribution or share of the goods, chattels, and personal estate of any intestate shall be allotted, shall give bond, with sufficient sureties, in double the sum at least of such distributive share, to the administrators, with condition, that if any debt or debts, truly owing by the intestate, shall be afterwards sued for and recovered, or otherwise duly made to appear, and which there shall be no other assets to pay, that then, and in every such case, he or she shall respectively refund and pay back to the administrators, his or her ratable part of such debt or debts, and of the costs of suit and charges by reason of such debt or debts, out of the part and share so allotted to him or her; thereby to enable the said administrators to satisfy such debt or debts.

Persons, who shall receive a distributive share, to give bond to refund in case of debts

18. *And be it enacted by the authority aforesaid,* That if any person or persons shall neglect or refuse to obey any citation, or to perform any sentence or decree of the ordinary or judge of the prerogative court of this state, it shall and may be lawful to and for such ordinary and such court to cause such person or persons, by process directed to any sheriff of any county of this state, to be taken and imprisoned, until he, she, or they shall obey the said citation, or perform the said sentence or decree; and every sheriff is hereby directed to cause all such process, to him at any time directed, to be duly executed, and to confine the person or persons, against whom such process shall be issued, as in execution, until he, she, or they shall be delivered by due

Judge of the prerogative court may issue process to the sheriff to enforce his sentence or decree.

1795.

course of law; and if any sheriff shall neglect his duty therein, he shall be answerable to the party grieved, in such manner as the court would be answerable upon process of the like nature issuing out of the supreme court.

Will to be observed, where administration is granted, with it annexed.

No executor or administrator shall be cited to render an account unless in behalf of a minor or a party interested.

This act not to affect a former act.

19. *And be it enacted by the authority aforesaid, That, in all cases, where any administration shall be granted, with a will or testament annexed, the will of the deceased in such testament expressed shall be observed and performed.*

20. *And be it enacted by the authority aforesaid, That no administrator or executor shall be cited before any court or competent authority to render an account of the personal estate of his intestate or testator, otherwise than by an inventory or inventories thereof, unless it be at the instance or prosecution of some person or persons in behalf of a minor, or having a demand out of such personal estate, as a creditor, legatee, or next of kin, nor be compellable to account before the said court or authority, otherwise than as aforesaid. Provided, That nothing in this clause, or in any part of this act, shall be construed to affect the act, entitled "An act to ascertain the power and authority of the ordinary and his surrogates; to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of the state," passed the sixteenth day of December, in the year of our Lord, one thousand seven hundred and eighty-four.*

PAT. 158.

AN ACT concerning marriages.

Passed the 4th of March, 1795.

Within what degrees, marriages are prohibited.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That no man or woman shall intermarry within the degrees hereafter named, that is to say,*

No man shall marry his

Grandmother,
Grandfather's wife,
Wife's grandmother,
Father's sister,
Mother's sister,
Son's wife,
Sister,
Son's daughter,
Daughter's daughter,
Son's son's wife,

Daughter's son's wife,
Mother,
Stepmother
Wife's mother,
Daughter,
Wife's daughter,
Wife's son's daughter,
Wife's daughter's daughter,
Brother's daughter,
Sister's daughter.

No woman shall marry her

Grandfather,
Grandmother's husband,
Husband's grandfather,

Daughter's husband,
Brother,
Son's son,

Father's brother,
Mother's brother,
Father,
Stepfather,
Husband's father,
Son,
Husband's son.

Daughter's son,
Son's daughter's husband,
Daughter's daughter's husband,
Husband's son's son,
Husband's daughter's son,
Brother's son,
Sister's son.

1795.

2. *And be it enacted by the authority aforesaid,* That every justice of the peace of this state, and every stated and ordained minister of the gospel, shall be, and hereby is authorized and empowered to solemnize marriages between such persons as may lawfully enter into the matrimonial relation.

Who may solemnize marriages.

3. *And be it further enacted,* That no justice of the peace, minister of the gospel, or other person having or pretending to have authority to join persons together in the holy bands of matrimony, shall marry any male under the age of twenty-one years, or female under the age of eighteen years, unless the parent or parents, guardian or guardians, or person or persons under whose care and government such minor or minors shall be, be present, and give their consent thereto, or until the minor applying to be married, whether male or female, shall have produced a certificate in writing, under the hand of the parent or parents, guardian or guardians, or if such minor, so applying to be married, have no parent or guardian, then under the hand of the person or persons, under whose care and government he or she may at that time be; which certificate shall be proved to be genuine by the oath or affirmation of at least one person, of full age and discretion, who was present at the signing of the same, and affixed his or her name as a witness thereto; which oath or affirmation any justice of the peace, or minister of the gospel, authorized to solemnize marriages as aforesaid, is hereby authorized to take, and shall enter upon the back of the certificate.

Males under 21, and females under 18, not to be married without the consent of parents or guardians, certified under their hands.

4. *And be it further enacted,* That every justice of the peace, minister of the gospel, or other person, having or pretending to have authority to join persons in marriage, who shall marry any minor or minors, by virtue of a certificate had and proved as above directed, shall register the same, or cause it to be registered in a book by him to be kept for the purpose of registering of marriages, and, within three months after, transmit the original certificate to the clerk of the county, in which the marriage was solemnized, to be by him filed in his office.

Marriages, by virtue of certificates, to be registered, and filed.

5. *And be it enacted by the authority aforesaid,* That if any justice of the peace, minister of the gospel, or other person, having or pretending to have authority to join persons together in the holy bands of matrimony, shall marry any minor or minors, without the consent of the parent or parents, guardian or guardians, or person or persons, having the care and government of such minor or minors, had and obtained, according to the direction of this act, and contrary to the true intent and meaning thereof, every such justice of the peace, minister of the gospel, or other person, having or pretending to have authority to join per-

Justices and ministers, who shall marry any minor, without such certificate, shall forfeit 300 dollars.

1785.

sent together in the holy bands of matrimony, shall, for every such offence, forfeit three hundred dollars, to be recovered, with costs of suit, by action of debt or information, in any court of record of this state, by the parent, guardian, or person having charge of such minor, as shall be so joined in marriage as aforesaid, the one half of the said forfeiture to be paid to the treasurer of the state, for the use of the state, and the other half to be for the use of the parent, guardian, or other person, having charge of such minor, who shall prosecute the same to effect.

Justices and ministers to record marriages, and make return of them to the clerk of the common pleas.

6. *And be it further enacted*, That every justice of the peace, and minister of the gospel, shall make and keep a particular record of all marriages solemnized before him, and transmit a certificate of every particular marriage (containing both christian names and surnames) within six months after the solemnization thereof to the clerk of the court of common pleas for the county, in which the marriage was solemnized.

Penalty on justices and ministers, who shall not make such return in due time.

7. *And be it further enacted*, That if any justice of the peace, or minister of the gospel, shall neglect, omit, or refuse to make return to the clerk of the county as aforesaid, of all the marriages by him pronounced, he shall, for every such offence, forfeit the sum of fifty dollars, to be recovered, with costs, by the clerk of the said court of common pleas, or any other person, who shall prosecute for the same, by action of debt or information, in any court having cognizance thereof.

Clerk of common pleas to record such return in one month, upon the penalty of 100 dollars.

8. *And be it further enacted*, That the respective clerks of the courts of common pleas, in and for the several counties of this state, shall register and record all such returns of marriages at large in a book to be kept for that purpose, and no other, within the space of one calendar month after receiving the same, for which service the said clerks respectively shall be allowed and receive, for each and every entry aforesaid, the sum of twelve cents, to be paid, by the persons married, to such justice of the peace, or minister, who shall perform the ceremony, and by such justice or minister, with the certificate thereof, be transmitted to the clerk; and if any such clerk shall refuse, neglect, or omit to register and record, within the said time, any such return so to him made or any part thereof, he shall forfeit the sum of one hundred dollars, to be recovered, with costs, by any person, who shall prosecute for the same, by action of debt or information, in any court having cognizance thereof.

Religious societies may marry, and record such marriages.

9. *And be it further enacted*, That it shall and may be lawful for every religious society in this state to join together in marriage such persons as are of the said society, according to the rules and customs of the society, to which they belong; provided, that the clerk or keeper of the minutes, proceedings, or other book of the religious society, wherein such marriages shall be had and solemnized, shall make a true and faithful register of a marriages solemnized, in the society, in the book by him kept

Books of marriages, to be admitted as evidence.

10. *And be it further enacted*, That such book of marriage: so kept by the respective clerks of the courts of common pleas and by the clerks of such religious societies, as are authorized

solemnize marriages by the preceding section of this act, shall be admitted as evidence in all courts of law and equity in this state.

1795.

11. *And be it further enacted*, That if any justice of the peace, or minister of the gospel, shall wilfully and knowingly make a false return of such marriages, or any of them, to the said clerk of the court of common pleas, or if the said clerk of such court shall wilfully and knowingly make a false entry, register and record of any return of marriages, so to him made, in the said book by him before directed to be kept; or if any clerk or keeper of the minutes, and proceedings of such religious societies, as are authorized to solemnize marriages by this act, shall wilfully and knowingly make a false entry, register and record of such marriages, or any of them, then every such person, so offending, shall be adjudged guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, at the discretion of the court.

A false return and false register of marriages, how to be punished.

12. *And be it enacted by the authority aforesaid*, That the act, entitled "An act to prevent clandestine marriages," passed the twenty-seventh day of March, in the year of our Lord one thousand seven hundred and nineteen, be, and the same is hereby repealed.

Former act repealed.

An act for preventing delays by essoins and protections, and for abolishing trials by wager of law.

PAT. 100.

Passed the 5th of March, 1795.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That no essoin or protection shall hereafter be allowed in any suit whatsoever.

No essoin or protection to be allowed.

2. *And be it enacted by the authority aforesaid*, That trials by wager of law shall be, and hereby are abolished in all cases, except in the case of non-summons, and that no person shall hereafter be permitted to wage his or her law in any case, except that of non-summons in real actions.

Trials by wager of law abolished.

AN ACT for the recovery of damages in writs of assize and real actions.

PAT. 161.

Passed the 5th of March, 1795.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That in all assizes, if judgment be given for the plaintiff, he or she shall recover his or her damages; and in all assizes of novel disseisin and writs of entry, the demandants, if they recover the tenements demanded, shall also recover their damages against the disseisors; and if the disseisors alien the land, and have not whereof the damages may be levied, they, to whose hands such

Plaintiff to recover damages in assizes, writs of entry, and possessory actions.

1795.

tenements shall come, shall be charged with the damages, so that every one shall answer for his or her time: *And further*, That in all writs and actions possessory, whereby lands or tenements are demanded, damages shall be recovered as aforesaid.

PAT. 162.

AN ACT regulating proceedings and trials in criminal cases.

Passed the 6th of March, 1795.

In treason, the prisoner shall have a copy of the indictment, and list of the jurors and witnesses, three days before trial; and in certain other offences shall have such copy and a list of the jurors, two days before trial.

Court to assign counsel to the defendant.

No evidence to be given of any act of treason not charged.

If a person plead not guilty, he shall be considered as putting himself upon the country.

Mode of proceeding where the party indicted stands mute, or refuses to plead.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That any person, who shall be accused and indicted of treason, shall have a copy of the indictment, and a list of the jury, and witnesses to be produced on the trial for proving the said indictment, mentioning the names and places of abode of such jurors and witnesses, delivered unto him at least three entire days before the trial; and in murder, and other offences punishable with death, and also in misprision of treason, manslaughter, sodomy, rape, arson, burglary, robbery, and forgery, shall have such copy of the indictment and list of the jury, two entire days, at least, before the trial.

2. *And be it enacted by the authority aforesaid*, That the court before whom any person shall be tried upon indictment, is hereby authorized and required to assign to such person, if not of ability to procure counsel, such counsel, not exceeding two, as he or she shall desire, to whom such counsel shall have free access, at all seasonable hours.

3. *And be it enacted by the authority aforesaid*, That no evidence shall be admitted or given against any person of any overt act of treason, that is not expressly laid in the indictment.

4. *And be it enacted by the authority aforesaid*, That as well in treason and murder, as in all other offences, which are or may be committed against this state, when any person, on being arraigned, or called to answer the matter charged in the indictment against him or her, shall plead not guilty, every such person, so pleading, shall be deemed and taken to put himself or herself upon the inquest or country for trial, without any question being asked how he or she will be tried.

5. *And be it enacted by the authority aforesaid*, That if any person be indicted for any offence whatever, against this state, and shall, on being arraigned, or called to answer the matter charged in such indictment, stand mute, a jury shall forthwith be empaneled to try and say, whether the person, so standing mute, standeth mute obstinately and on purpose, or by the providence and act of God; and if they return their verdict, that such person standeth mute by the providence and act of God, the court shall thereupon cause him or her to be remanded to prison, and shall not proceed against him or her, until he or she shall have recovered therefrom; but if the jury shall return their verdict, that the person so standing mute, standeth mute obsti-

nately and on purpose, then the court shall cause to be entered upon the indictment against such person, the plea of not guilty, and also shall cause the like plea of not guilty to be entered, where any person, indicted as aforesaid, shall refuse to plead or answer to such indictment; and in all such cases shall proceed upon his or her trial, in like manner, in all respects, as if he or she had voluntarily pleaded the same plea thereto; except that such person, so standing mute obstinately and on purpose, or refusing to plead or answer as aforesaid, shall not be admitted to make any challenges to the jurors.

1795.

6. *And be it enacted by the authority aforesaid,* That every person who shall be indicted for treason, murder, or other crime, punishable with death, or for misprision of treason, manslaughter, sodomy, rape, arson, burglary, robbery, or forgery, and shall voluntarily and duly plead the plea of not guilty, to such indictment, shall be admitted peremptorily to challenge twenty of the jury, and no more; and if any person, indicted as aforesaid, after having voluntarily and duly pleaded as aforesaid, shall peremptorily challenge a greater number of the jury than twenty, the court shall disallow of all such challenges, over and above the said number of twenty; and the jury shall be charged, and the trial shall proceed in like manner, in all respects, and the like judgment shall be given, as would or ought to be had and given, if the person so indicted as aforesaid, and having pleaded as aforesaid, had not peremptorily challenged a greater number of the jury than in and by this act he or she is admitted to challenge.

What offenders may peremptorily challenge twenty jurors.

7. *And be it enacted by the authority aforesaid,* That neither the attorney-general, nor any other person prosecuting for and in behalf of this state, shall be admitted, in any case, to challenge any juror, without assigning a cause certain, to be tried and approved by the court; and further, the privilege of peremptory challenges shall not be allowed to offenders in any cases, but such as are specified in the section immediately preceding.

The state not to challenge a juror without cause.

No offenders, except in the above cases, to be allowed peremptory challenges.

8. *And be it enacted by the authority aforesaid,* That the law relative to the peine forte et dure, shall be, and hereby is, abolished.

Peine forte et dure abolished.

9. *And be it further enacted by the authority aforesaid,* That no indictor of any person, for any crime or offence whatsoever, shall be put upon the inquest for the trial of such person, if he be challenged for the same cause, by him or her so indicted.

No indictor to be on the inquest for the trial.

10. *And be it enacted by the authority aforesaid,* That, from henceforth, the words, with force and arms, or any such like words, shall not of necessity be put or comprised in any inquisition or indictment of treason, murder, manslaughter, rape, robbery, trespass, or any other offence; and that no person, being hereafter indicted of any offence, shall have or take any advantage, by writ of error, plea, or otherwise, to annul or avoid any such inquisition or indictment, for that the words, with force and arms, or any such like words, shall not be put or comprised in the said inquisition or indictment, but that the same inquisition or indictment without the words, with force and arms, or any

The words, with force and arms, not necessary in indictments or inquisitions.

1795.

Indictments and process shall not be quashed for miswriting, misspelling, or false or improper English, unless exception be taken before evidence given.

such like words, shall, from henceforth, be taken and adjudged to be as good and effectual in the law, as if the same inquisition or indictment had the said words, with force and arms, or any such like words, inserted and comprised therein.

11. *And be it enacted by the authority aforesaid,* That no indictment, nor any process or return thereupon, shall be quashed, on the motion of the offender, or his or her counsel, for miswriting, misspelling, false or improper English, unless exception concerning the same be taken and made in the court, where such trial shall be, by the offender or his or her counsel, before any evidence given in open court upon such indictment; nor shall any such miswriting, misspelling, false, or improper English, after conviction on such indictment, be any cause to stay or arrest judgment thereupon; but nevertheless, any judgment given upon such indictment shall and may be liable to be reversed upon a writ of error, in the same manner as if this act had not been made.

Treason committed out of the state, or on the sea, where and how to be tried.

12. *And be it enacted by the authority aforesaid,* That all acts of treason against this state, which shall be committed or done upon the land, out of this state, or upon the sea, shall and may be inquired of, heard, and determined in the supreme court of this state, by good and lawful men of the same county, where the said court shall sit, in like manner and form, to all intents and purposes, as if the said treason had been committed or done within the same county.

In what cases writs of error shall be considered as of right, or of grace.

13. *And be it enacted by the authority aforesaid,* That writs of error in all criminal cases, not punishable with death, shall be considered as writs of right, and issue of course; and in all other cases, punishable with death, writs of error shall be considered as writs of grace, and shall not issue but by order of the chancellor for the time being, made upon motion or petition, notice whereof shall always be given to the attorney-general, or the prosecutor for the state.

PAT. 163.

AN ACT concerning landlords and tenants.

Passed the 10th of March, 1796.

Action of debt may be brought for arrears of rent on a lease for life.

1. WHEREAS no action of debt lies against a tenant for life or lives, for any arrears of rent, during the continuance of such estate for life or lives; *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for any person or persons, having any rent in arrear or due upon a lease for life or lives, to bring an action or actions of debt for such arrears of rent, in the same manner as he, she, or they might have done in case such rent was reserved and due upon a lease for years.

2. *And whereas,* where any lessor or landlord, having only an estate for life in the lands, tenements, or hereditaments demise, happens to die before, or on the day, on which any rent is re-

served or made payable, such rent, or any part thereof, is not, by law, recoverable by the executors or administrators of such lessor or landlord, nor is the person in reversion entitled thereto any other than for the use and occupation of such lands, tenements or hereditaments, from the death of the tenant for life, of which advantage hath been often taken by the under-tenants, who thereby avoid paying any thing for the same; for remedy whereof, *Be it enacted by the authority aforesaid*, That where any tenant for life shall happen to die before, or on the day, on which any rent was reserved or made payable, upon any demise or lease of any lands, tenements or hereditaments, which determined on the death of any tenant for life, that the executors, or administrators of such tenant for life shall and may, in an action on the case, recover of and from such under-tenant or under-tenants of such lands, tenements, or hereditaments, if such tenant for life die on the day, on which the same was made payable, the whole, or if before such day, then a proportion of such rent, according to the time such tenant for life lived of the last year, or quarter of a year, or other time in which the said rent was growing due as aforesaid, making all just allowances, or a proportionable part thereof respectively.

3. *And to obviate some difficulties, that many times occur in the recovery of rents, where the demises are not by deed, Be it enacted by the authority aforesaid*, That it shall and may be lawful to and for the landlord or landlords, his, her, or their heirs or assigns, where the agreement is not by deed, to recover a reasonable satisfaction for the lands, tenements, or hereditaments, held or occupied by the defendant or defendants, in an action on the case, for the use and occupation of what was so held or enjoyed; and if in evidence on the trial of such action, any parol demise, or any agreement, (not being by deed) whereon a certain rent was reserved, shall appear, the plaintiff in such action shall not therefore be nonsuited, but may make use thereof as an evidence of the quantum of the damages to be recovered.

4. *And be it enacted by the authority aforesaid*, That no goods or chattels whatsoever, lying or being, or which shall lie or be in or upon any messuage, lands, or tenements, which are or shall be leased for term of life or lives, year or years, at will or otherwise, shall be liable to be taken, by virtue of any execution, on any pretence whatever, unless the party, at whose suit the said execution is sued out, shall, before the removal of such goods from off the said premises, by virtue of such execution, pay to the landlord of the said premises, or his bailiff, all and every sum or sums of money as are or shall be due for rent for the said premises, at the time of the taking such goods or chattels by virtue of such execution; provided the said arrears of rent do not amount to more than one year's rent; and in case the said arrears shall exceed one year's rent, then the said party at whose suit such execution is sued out, paying the said landlord or his bailiff one year's rent, may proceed to execute his judgment, as he might have done before the making of this act; and the sheriff, or other officer is hereby empowered and required to levy

1795.

If tenant for life die, on or before the day that the rent becomes due, his executors or administrators may recover the same or a proportional part of it.

Where demises are not by deed, landlords may recover a reasonable satisfaction for their lands.

Goods not liable to execution, unless party pay arrears of rent to landlord, not exceeding one year's rent.

1795.

and pay to the plaintiff, as well the money so paid for rent, as the execution money.*

A tenant or other person, who shall hold over lands after the determination of the term, to pay double the yearly value of the lands.

5. *And be it enacted by the authority aforesaid,* That in case any tenant or tenants for any term of life or lives, year or years, or other person or persons, who are or shall come into possession of any lands, tenements, or hereditaments, by, from, or under, or by collusion with such tenant or tenants, shall wilfully hold over any lands, tenements, or hereditaments, after the determination of such term or terms, and after demand made and notice in writing given for delivering the possession thereof, by his, her, or their landlord or landlords, lessor or lessors, or the person or persons, to whom the remainder or reversion of such lands, tenements, or hereditaments shall belong, his, her, or their agent or agents, thereunto lawfully authorized; then, and in such case, such person or persons, so holding over, shall, for and during the time he, she, or they shall so hold over, or keep the person or persons entitled out of possession of the said lands, tenements, or hereditaments, as aforesaid, pay to the person or persons, so kept out of possession, his, her, or their executors, administrators, or assigns, at the rate of double the yearly value of the lands, tenements, or hereditaments so detained, for so long time as the same are detained; to be recovered in any court of record in this state, by action of debt, whereunto the defendant or defendants shall be obliged to give special bail, and against the recovering of which said penalty there shall be no defence in equity.

A tenant, if he give notice of his intention to quit the premises, and refuse to give possession according to such notice, shall pay double rent.

6. *And whereas* great inconveniencies have happened and may happen to landlords, whose tenants have power to determine their leases, by giving notice that they intend to quit the premises by them holden, and yet refusing or neglecting to deliver up the possession to the landlord; *Be it further enacted by the authority aforesaid,* That in case any tenant or tenants shall give notice of his, her, or their intention to quit the premises by him, her, or them holden, at a time mentioned in such notice, and shall not accordingly deliver up the possession thereof at the time in such notice contained, that then the said tenant or tenants, his, her, or their executors or administrators, shall, from thenceforward, pay to the landlord or landlords, lessor or lessors, his, her, or their heirs or assigns, double the rent or sum, which he, she, or they should otherwise have paid, to be levied, sued for, and recovered at the same times, and in the same manner, as the single rent or sum, before the giving such notice, could be levied, sued for and recovered; and such double rent or sum shall continue to be paid during all the time such tenant or tenants shall continue in possession as aforesaid.

7. *And whereas* great inconveniencies do and may happen to lessors or landlords in cases of re-entry for non-payment of rent by reason of the many niceties that attend re-entries at common law, and for as much as when a legal re-entry is made, the landlord or lessor must be at the expense, charge, and delay of re-

* See supplement, 15th February, 1820.

covering in ejectment, before he can obtain the actual possession of the demised premises, and it often happens that, after such a re-entry made, the lessee, or his assignee, upon one or more bill or bills filed in a court of equity, not only holds out the lessor or landlord by an injunction, from recovering the possession, but likewise pending the said suit, do run much more in arrear, without giving any security for the rents due, when the said re-entry was made, or which shall or do afterwards incur; for remedy whereof, *Be it enacted by the authority aforesaid*, That in all cases between landlord and tenant, as often as it shall happen, that one half year's rent shall be in arrear, and the landlord or lessor, to whom the same is due, hath right, by law, to re-enter for the non-payment thereof, such landlord or lessor shall and may, without any formal demand or re-entry, serve a declaration in ejectment for the recovery of the demised premises, or in case the same cannot be legally served, or no tenant be in actual possession of the premises, then to affix the same upon the door of any demised messuage, or in case such ejectment shall not be for the recovery of any messuage, then upon some notorious place of the lands, tenements, or hereditaments, comprised in such declaration in ejectment, and such affixing shall be deemed legal service thereof; which service, or affixing such declaration in ejectment, shall stand in the place and stead of a demand and re-entry; and in case of judgment against the casual ejector, or nonsuit for not confessing lease, entry, and ouster, it shall be made to appear to the court, where the said suit is depending by affidavit, or be proved upon the trial, in case the defendant appears, that half a year's rent was due before the declaration was served, and that no sufficient distress was to be found on the demised premises, countervailing the arrears then due, and that the lessor or lessors in ejectment had power to re-enter, then, and in every such case, the lessor or lessors in ejectment shall have judgment and execution, in the same manner, as if the rent in arrear had been legally demanded and re-entry made; and in case the lessee or lessees, his, her, or their assignee or assignees, or other person or persons, claiming or deriving title under the said lease, shall suffer judgment on such ejectment, and execution to be executed thereon, without paying the rent and arrears, together with full costs, and without filing any bill or bills for relief in equity, within six calendar months after such execution executed, then, and in such case, the said lessee or lessees, his, her, or their assignee or assignees, and all other persons, claiming and deriving title under the said lease, shall be barred and foreclosed from all relief or remedy in law or equity, other than by writ of error for reversal of such judgment, in case the same shall be erroneous, and the said landlord or lessor, shall, from thenceforth, hold the same demised premises discharged from such lease; and if, on such ejectment, verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs shall be non-suited therein, except for the defendant or defendants not confessing lease, entry, and ouster, then, and in every such case, the defendant or defendants shall have and recover his, her, or their full costs: *Provided always*, That nothing herein contained shall

1795.

Where one-half year's rent is in arrear, the landlord having right to re-enter, may recover the land by ejectment.

But this act shall not affect

1795.

any mortgagee who is not in possession, if he pay the rent, with costs, in six months.

extend to bar the right of any mortgagee or mortgagees of such lease, or any part thereof, who shall not be in possession, so as such mortgagee or mortgagees shall and do, within six calendar months after such judgment obtained and execution executed, pay all rent in arrear, and all costs and damages sustained by such lessor, or person or persons entitled to the remainder or reversion as aforesaid, and perform all the covenants and agreements, which on the part and behalf of the first lessee or lessees are and ought to be performed.

The lessee, if he file a bill in equity, shall not have an injunction to stay proceedings at law, unless he bring into court, the rent due, and costs.

In what case the lessor shall be accountable for actual profits only.

8. *And be it further enacted by the authority aforesaid,* That in case the said lessee or lessees, his, her, or their assignee or assignees, or other person or persons, claiming any right, title, or interest in law or equity, of, in, or to the said lease, shall within the time aforesaid, file one or more bill or bills for relief, in any court of equity, such person or persons shall not have or continue any injunction against the proceedings at law on such ejectment, unless he, she, or they do or shall, within twenty days next after a full and perfect answer shall be filed, by the lessor or lessors of the plaintiff in such ejectment, bring into court and lodge with the proper officer, such sum and sums of money as the lessor or lessors of the plaintiff in the said ejectment shall, in his, her, or their answer, swear to be due and in arrear, over and above all just allowances, and also the costs taxed in the said suit, there to remain till the hearing of the cause, or to be paid out to the lessor or landlord on good security, subject to the decree of the court; and in case such bill or bills shall be filed within the time aforesaid, and after the execution is taken, the lessor or lessors of the plaintiff shall be accountable for so much and no more as he, she, or they shall really and honestly give, without fraud, deceit, or wilful neglect, make of the demised premises, from the time of his, her, or their entering into the actual possession thereof; and if what shall be so made by the lessor or lessors of the plaintiff happen to be less than the rent reserved on the said lease, then the said lessee or lessees, his, her, or their assignee or assignees, before he, she, or they shall be restored to his, her, or their possession or possessions, shall pay such lessor or lessors, landlord or landlords, what the money, so by them respectively made, fell short of the reserved rent, for the time such lessor or lessors of the plaintiff, or landlord or landlords, held the said lands.

If lessee pay rent and costs, ejectment shall be discontinued.

9. *Provided always, and be it further enacted by the authority aforesaid,* That if the tenant or tenants, his, her, or their assignee or assignees, do or shall, at any time before the trial in such ejectment, pay or tender to the lessor or landlord, his or her executors or administrators, or his, her, or their attorney in that cause, or pay into the court, where the same cause is or shall be depending, all the rent and arrears, together with the costs; then, and in such case, all further proceedings on the said ejectment shall cease and be discontinued; and if such lessee or lessees, his, her, or their executors, administrators, or assigns, shall, upon such bill filed as aforesaid, be relieved in equity, he, she, or they shall have, hold, and enjoy the demised lands, according

to the lease thereof made, without any new lease to be thereof made to him, her, or them.

1795.

10. *And whereas*, landlords are often great sufferers by tenants running away in arrear, and not only suffering the demised premises to be uncultivated, without any distress thereon, whereby their landlords or lessors might be satisfied for the rent in arrear, but also refusing to deliver up the possession of the demised premises, whereby the landlords are put to the expense and delay of recovering in ejectment; *Be it further enacted by the authority aforesaid*, That if any tenant, holding any lands, tenements, or hereditaments, who shall be in arrear for one year's rent, shall desert the demised premises, and leave the same uncultivated or unoccupied, so as no sufficient distress can be had to countervail the arrears of rent, it shall and may be lawful to and for two or more justices of the peace, of the county, in which the demised premises lie, and who have no interest in the same, at the request of the landlord or landlords, lessor or lessors, or his, her, or their bailiff or agent, to go upon and view the same, and to affix, or cause to be affixed, on the most notorious part of the premises, notice in writing what day (at the distance of fourteen days at least) they will return to take a second view thereof, and if, upon such second view, the tenant, or some person in his or her behalf, shall not appear and pay the rent in arrear, or there shall not be sufficient distress upon the premises, then the said justices may put the said landlord or landlords, lessor or lessors, into the possession of the said demised premises, and the lease thereof to such tenant, as to any demise therein contained, shall, from thenceforth, become void; *Provided always*, That such proceedings of the said justices shall be examinable in a summary way by the judges of the supreme court, who are hereby empowered to order restitution to be made to such tenant, together with his or her expenses and costs, to be paid by the landlord or landlords, lessor or lessors, if they shall see cause for the same; and in case they shall affirm the act of the said justices, to award costs to be paid by such tenant, and the costs, as well in the instance of restitution as of affirmance aforesaid, shall be levied and recovered against the body or bodies, or goods and chattels, lands and tenements, of such landlord or tenant, as the case may be.

If tenant desert the premises, two or more justices of the peace may put the landlord into possession.

Proceedings of such justices shall be examinable by the supreme court.

11. *And whereas* persons do and may hold considerable estates by leases for lives or years, and lease out the same in parcels to several under tenants; and whereas many of those leases cannot by law be renewed without a surrender of all the under leases derived out of the same, so that it is in the power of such under tenants to prevent or delay the renewal of the principal lease, by refusing to surrender their under leases, notwithstanding they have covenanted so to do, to the great prejudice of their immediate landlords, the first lessors; for preventing such inconveniences, and for making the renewal of leases more easy for the future, *Be it enacted by the authority aforesaid*, That in case any lease shall be duly surrendered in order to be renewed, and a new lease made and executed by the chief landlord or

Surrender of a chief lease, for the purpose of renewal, and

1795.

a new lease made, shall be good, without a surrender of the under leases.

landlords, the same new lease shall, without a surrender of all or any the under leases, be as good and valid, to all intents and purposes, as if all the under leases, derived thereout, had been likewise surrendered at or before the taking of such new lease, and all and every person or persons, in whom any estate for life or lives, or for years, shall, from time to time, be vested, by virtue of such new lease, and his, her and their executors and administrators, shall be entitled to the rents, covenants and duties, and have like remedy for recovery thereof, and the under lessees shall hold and enjoy the messuages, lands and tenements, in the respective under leases comprised, as if the original leases, out of which the respective under leases are derived, had been still kept on foot and continued; and the chief landlord or landlords shall have and be entitled to such and the same remedy, by distress or entry in and upon the messuages, lands, tenements and hereditaments, comprised in any such under lease, for the rents and duties reserved by such new lease, so far as the same exceed not the rents and duties reserved in the lease out of which such under lease was derived, as he, she, or they would have had, in case such former lease had been still continued, or as he, she, or they would have had, in case the respective under leases had been renewed under such new principal lease.

Attornment of tenant to be void;

unless made in pursuance of a judgment or decree, or with consent of landlord, or to mortgagee, after mortgage forfeited.

12. *And whereas* the possession of estates in lands, tenements and hereditaments is rendered very precarious, by the frequent and fraudulent practice of tenants, in attorning to strangers, who claim title to the estates of their respective landlord or landlords, lessor or lessors, who by that means are turned out of possession of their respective estates, and put to the difficulty and expense of recovering the possession thereof by actions or suits at law; for remedy whereof, *Be it enacted by the authority aforesaid*, That all and every such attornment or attornments of any tenant or tenants of any messuages, lands, tenements, or hereditaments, shall be absolutely null and void, to all intents and purposes whatsoever, and the possession of their respective landlord or landlords, lessor or lessors, shall not be deemed or construed to be in anywise changed, altered, or affected, by any such attornment or attornments. *Provided always*, That nothing herein contained shall extend to vacate or affect any attornment made pursuant to, or in consequence of some judgment at law, or decree or order of a court of equity, or made with the privity and consent of the landlord or landlords, lessor or lessors, or to any mortgagee, after the mortgage has become forfeited.

Tenant must give notice to his landlord of a declaration in ejectment, delivered to him, on penalty of three years rent.

13. *And whereas* great inconveniencies have frequently happened to landlords by their tenants secreting declarations in ejectment, which have been delivered to them, or by refusing to appear to such ejectments, or to suffer their landlords to take upon them the defence thereof; therefore, *Be it enacted by the authority aforesaid*, That every tenant, to whom any declaration in ejectment shall be delivered for any lands, tenements, or hereditaments, shall forthwith give notice thereof to his or her landlord or landlords, or his, her, or their bailiff, receiver, agent, or lawful attorney, under the penalty of forfeiting the value of three

years improved or rack rent of the premises so demised or hold-
en in the possession of such tenant, to the person of whom he
or she holds, to be recovered by action of debt, to be brought
in any court of record within this state.

1795.

14. *And be it further enacted by the authority aforesaid,* That
it shall and may be lawful for the court, where such ejectment
shall be brought, to suffer the landlord or landlords, to make
himself, herself, or themselves defendant or defendants, by join-
ing with the tenant or tenants, to whom such declaration in eject-
ment shall be delivered, in case he, she, or they shall appear;
but in case such tenant or tenants shall refuse or neglect to ap-
pear, judgment shall be signed against the casual ejector, for
want of such appearance; but if the landlord or landlords of the
whole or any part of the lands, tenements, or hereditaments, for
which such ejectment was brought, shall desire to appear by
himself, herself, or themselves, and consent to enter into the like
rule, that by the course of the court the tenant in possession, in
case he or she had appeared, ought to have done, then the court,
where such ejectment shall be brought, shall and may permit
such landlord or landlords so to do, and order a stay of execu-
tion upon such judgment against the casual ejector, until they
shall make further order therein.

Landlord shall
be admitted a
defendant in
ejectment.

See supplement, 15th February, 1820.

AN ACT for preventing the injury of illegal confinement, and bet-
ter securing the liberty of the people.

PAT. 168.

Passed the 11th of March, 1796.

1. **BE IT ENACTED** by the Council and General Assembly of
this state, and it is hereby enacted by the authority of the same,
That whensoever any person or persons shall bring any habeas
corpus directed to any sheriff, gaoler, or other person or persons
whatsoever, for any person in his or their custody, and the said
writ shall be served upon the said officer, or other person or per-
sons, or left at the gaol or prison with any of the under officers,
under keepers, or deputy of the said officers or keepers, that the
said officer or officers, his or their under officers, under keepers,
or deputies, or other person or persons, shall, within three days
after the service thereof as aforesaid, (unless the commitment
aforesaid were for treason, murder, manslaughter, sodomy, rape,
arson, burglary, robbery, forgery, or larceny, or for rescues, or
voluntary escapes in such cases, or any of them, plainly and spe-
cially expressed in the warrant of commitment) upon payment or
tender, of the charges of bringing the said prisoner, to be ascer-
tained by the judge or court that awarded the same, and endorsed
upon the said writ, not exceeding twelve cents a mile, and upon
security given, by his own bond, to pay the charges of carrying
back the prisoner, if he shall be remanded by the court or judge,
to which he shall be brought, according to the true intent of this
act, and that he will not make any escape by the way, make re-

Writs of habe-
as corpus, how
to be served
and returned.

1795.

turn of such writ; and bring, or cause to be brought, the body of the party so committed or restrained unto or before the chancellor of this state for the time being, or the justices of the supreme court, or unto or before such of them, before whom the said writ is made returnable, according to the command thereof; and shall then likewise certify the true causes of his detainer or imprisonment; unless the commitment of the said party be in a place beyond the distance of twenty miles from the place or places where such chancellor, court, or justice is or shall be residing; and if beyond the distance of twenty miles, and not above one hundred miles, then within the space of ten days; and if beyond the distance of one hundred miles, then within the space of twenty days after such delivery as aforesaid, and not longer.

Writs of habeas corpus, how to be marked and by whom to be signed.

2. *And to the intent, that no sheriff, gaoler, or other officer, may pretend ignorance of the import of any such writ, Be it enacted by the authority aforesaid,* That all such writs shall be marked in this manner, "By the statute," and be signed by the person who awards the same.

How and by whom writs of habeas corpus are to be granted in vacation.

3. *And be it enacted by the authority aforesaid,* That if any person or persons shall be or stand committed, or detained, as aforesaid, for any crime, unless for treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, or larceny, or for rescues or voluntary escapes in any such case, plainly and specially expressed in the warrant of commitment, in the vacation time, and out of term, it shall and may be lawful to and for the person or persons so committed or detained, (other than persons convict, or in execution by legal process) or any one on his or their behalf, to apply or complain to the chancellor, or any one of the justices of the supreme court; and the said chancellor, or justices, or any of them, upon view of the copy or copies of the warrant or warrants of commitment and detainer, or otherwise, upon oath or affirmation made, that such copy or copies were denied to be given by such person or persons, in whose custody the prisoner or prisoners is or are detained, are hereby authorized and required, upon request made in writing by such person or persons, or any person on his, her, or their behalf, attested and subscribed by two witnesses, who were present at the delivery of the same, to award and grant an habeas corpus under the seal of such court, whereof he shall then be one of the judges, to be directed to the officer or officers, or person or persons, in whose custody the party so committed or detained shall be, returnable immediately before the said chancellor, or justice of the said supreme court; and upon service thereof as aforesaid, the officer or officers, his or their under officer or under officers, under keeper or under keepers, or their deputy, or person or persons, in whose custody the party is so committed or detained, shall, within the times respectively before limited, bring such prisoner or prisoners before the said chancellor, or justices of the said supreme court, or one of them, before whom the said writ is made returnable, and in case of his absence, before any other of them, with the return of such writ, and the true causes of the commitment and detainer; and thereupon, within two days after

Duty of the sheriff or other officer, on service of the habeas corpus.

In what cases prisoners may be discharged on recognizance.

the party shall be brought before him or them, the said chancellor, or such justice of the supreme court, before whom the prisoner shall be brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties, in any sum according to his or their discretion, having regard to the quality of the prisoner and nature of the offence, for his or their appearance in the supreme court the term following, or at the next sessions of oyer and terminer, or general gaol delivery of and for such county, or place where the commitment was, or where the offence was committed, or in such other court, where the said offence is properly cognizable, as the case shall require, and shall then certify the said writ, with the return thereof, and the said recognizance or recognizances, into the said court, where such appearance is to be made; unless it shall appear to the said chancellor, or justice or justices, that the party so committed is detained upon a legal process, order, or warrant, out of some court, which hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said justices, or some justice or justices of the peace, for such matters or offences, for which, by law, the prisoner is not bailable.

1795.

4. *Provided always, and be it further enacted by the authority aforesaid,* That if any person shall have wilfully neglected, for the space of two whole terms after his or her imprisonment, to pray an habeas corpus for his or her enlargement, such person, so wilfully neglecting, shall not have any habeas corpus to be granted in vacation time in pursuance of this act.

If a prisoner shall not apply for two terms for a writ of habeas corpus, it shall not be granted in vacation.

5. *And be it enacted by the authority aforesaid,* That if any officer or officers, his or their under officer or under officers, under keeper or under keepers, or deputy or other person or persons, shall neglect or refuse to make the returns aforesaid, or to bring the body or bodies of the prisoner or prisoners according to the command of the said writ, within the respective times aforesaid, or upon demand made by the prisoner, or any person in his behalf, shall refuse to deliver, or, within the space of six hours after demand, shall not deliver to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner, which he and they is and are hereby required to deliver accordingly, all and every of the head gaolers and keepers of such prisons, and such other person or persons, in whose custody the prisoner shall be detained, shall, for the first offence, forfeit to the prisoner or party grieved the sum of three hundred dollars, and for the second offence the sum of six hundred dollars, and shall, if an officer, be, and is hereby made incapable to hold or execute his said office; the said penalties to be recovered by the prisoner or party grieved, his or her executors or administrators, against such offender, his executors or administrators, by any action of debt, suit, bill, plaint, or information, in any court of record, wherein no privilege, injunction, or stay of prosecution by non vult ulterius prosequi, or otherwise, shall be admitted or allowed, or any more than one imparlance; and any recovery or judgment, at the suit of any party grieved,

Penalty on officers and others, who, in such cases, shall neglect or refuse to do their duty.

Penalty, how and by whom recoverable.

1795.

shall be a sufficient conviction for the first offence; and any after recovery or judgment, at the suit of a party grieved, for any offence, after the first judgment, shall be a sufficient conviction to bring the officers, or person or persons, within the said penalty for the second offence.

Persons liberated on habeas corpus, are not to be re-committed for the same offence, unless by a court having cognizance of the cause, on forfeiture of \$1400.

6. *And for the prevention of unjust vexation by reiterated commitments for the same offence, Be it enacted by the authority aforesaid,* That no person, who shall be delivered or set at large upon any habeas corpus, shall, at any time thereafter, be again imprisoned or committed for the same offence, by any person or persons whatsoever, other than by the legal order and process of such court, wherein he or she shall be bound by recognizance to appear, or other court having jurisdiction of the cause; and if any other person or persons shall knowingly, contrary to this act, re-commit or re-imprison, or knowingly procure or cause to be re-committed or re-imprisoned, for the same offence or pretended offence, any person delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he, she, or they shall forfeit to the prisoner, or party grieved, the sum of fourteen hundred dollars, to be recovered as aforesaid, any colorable pretence or variation in the warrant or warrants of commitment notwithstanding.

Within what time, persons committed for certain offences, are to be indicted and tried.

7. *And be it enacted by the authority aforesaid,* That if any person shall be committed for treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, or larceny, or for rescues, or voluntary escapes in any such case, plainly and specially expressed in the warrant of commitment, upon his prayer or petition in open court, the first week of the term, or first day of the sessions of oyer and terminer, or general gaol delivery, to be brought to his trial, shall not be indicted some time in the next term, sessions of oyer and terminer, or general gaol delivery, after such commitment, it shall and may be lawful to and for the justices of the supreme court, and justices of oyer and terminer, or general gaol delivery, and they are hereby required, upon motion to them made in open court, the last day of the term, sessions, or gaol delivery, either by the prisoner or any one in his behalf, to set at liberty such prisoner upon bail; unless it appear to the justices, upon oath or affirmation made, that the witnesses against the prisoner could not be produced the same term, sessions, or general gaol delivery; and if any person committed as aforesaid, upon his prayer or petition in open court, the first week of the term, or first day of the sessions of oyer and terminer, or general gaol delivery, to be brought to his trial, shall not be indicted and tried the second term, sessions of oyer and terminer, or general gaol delivery, after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment.

This act not to discharge a prisoner from civil suits.

8. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this act shall extend to discharge out of prison any person charged in debt, or other action, or process in any civil cause; but after he shall be discharged from imprisonment for such his criminal offence, he shall be kept in custody according to the law for such other suit.

9. *And be it enacted by the authority aforesaid,* That if any person or persons, citizens of this state, shall be committed to any prison, or in custody of any officer or officers whatsoever, for any criminal, or supposed criminal matter, that the said person shall not be removed from the said prison or custody, into the custody of any other officer or officers, unless it be by habeas corpus, or some other legal writ or process, or where the prisoner is delivered to the constable, or other inferior officer, to carry such prisoner to some common gaol, or where any person is sent, by order of any court, or judge, or justice of the peace, to any common work-house, or house of correction, or where the prisoner is removed from one prison or place to another within the same county, in order to his or her trial, or discharge, in due course of law, or in case of sudden fire or infection, or other necessity; and if any person or persons shall, after such commitment aforesaid, make out or sign, or countersign any warrant or warrants for such removal aforesaid, contrary to this act, as well he or she, who makes, or signs, or countersigns such warrant or warrants, as the officer or officers, who obey or execute the same, shall, for every offence, forfeit to the prisoner or party grieved, the sum of five hundred dollars, to be recovered in manner aforesaid.

1795.

Criminals not to be removed from the custody of one officer to that of another, but by habeas corpus, on the penalty of \$600, except in certain cases.

Persons acting contrary to this act, what to forfeit.

10. *And be it enacted by the authority aforesaid,* That it shall and may be lawful to and for any prisoner or prisoners, as aforesaid, to move for and obtain his or their habeas corpus, as well out of the court of chancery as out of the supreme court; and if the chancellor, or any justice of the supreme court for the time being, in the vacation time, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or upon oath or affirmation made, that such copy or copies were denied as aforesaid, shall deny any writ of habeas corpus by this act required to be granted, being moved for as aforesaid, they shall severally forfeit to the prisoner or party grieved the sum of fourteen hundred dollars, to be recovered in manner aforesaid.

Prisoner may have a habeas corpus from the chancery, or supreme court.

Chancellor or justice of the supreme court, refusing to issue habeas corpus, what to forfeit.

11. *And for preventing illegal imprisonments of the citizens of this state in prisons out of the state, Be it enacted by the authority aforesaid,* That no citizen of this state, who now is or hereafter shall be an inhabitant of or resident within this state, shall or may be sent prisoner to any place whatsoever out of this state, for any crime or offence committed within this state, and that every such imprisonment is hereby declared to be illegal; and that if any of the said citizens now is, or hereafter shall be so imprisoned, he or she so imprisoned shall and may, for every such imprisonment, maintain, by virtue of this act, an action or actions of false imprisonment in any court of record, against the person or persons by whom he or she shall be so committed, detained, imprisoned, sent prisoner, or transported, contrary to the true intent and meaning of this act, and against all or any person or persons, who shall frame, contrive, write, seal, sign or countersign, any warrant or writing for such commitment, detainer, imprisonment, or transportation, or shall be advising, aiding, or assisting in the same, or any of them; and the plaintiff in every

A citizen of this state shall not be sent out of it for any offence which he shall have committed in it; and if he be, he shall recover not less than 1500 dollars damages, with double costs.

1795.

The person writing, sealing, or signing such warrant for removal, shall be disabled to hold any office.

Persons who contract to go out of the state, are not within this act.

A citizen of this state, who shall have committed an offence in another state, to be sent there for trial.

Within what time suits for offences against this act shall be instituted.

In suits under this act, the defendant may plead the general issue, and give the special matter in evidence.

such action shall have judgment to recover double costs, besides damages, which damages, so to be given, shall not be less than fifteen hundred dollars; in which action no delay, stay, or stop of proceeding, by rule, order, or command, nor injunction or privilege whatsoever, nor any more than one imparlance, shall be allowed, excepting such rule of the court, wherein the action shall depend, made in open court, as shall be deemed, in justice, necessary, for special cause to be expressed in the said rule. And the person or persons, who shall knowingly frame, contrive, write, seal, sign, or countersign, any warrant for such commitment, detainer, or transportation, or shall so commit, detain, imprison, or transport any person or persons, contrary to this act, or be anywise advising, aiding or assisting therein, being lawfully convicted thereof, shall from thenceforth be disabled to bear any office of trust or profit under this state, and shall be fined or imprisoned at hard labor, or both, at the discretion of the court, before whom the conviction shall be had. *Provided, That nothing in this act shall extend to give benefit to any person, who shall, by contract in writing, agree with any merchant, or owner of any plantation, or other person whatsoever, to go, be transported, or sent to any place out of this state, or to any part beyond the seas, and receive earnest upon such agreement, although such person shall afterwards renounce such contract. Provided also, That if any citizen of this state, or person or persons at any time resident in the same, shall have committed, or be charged with having committed any treason, felony, or misdemeanor in any other of the United States, where he or she ought to be tried for such offence, such citizen, person or persons, may be sent to such state having jurisdiction of such offence, there to receive such trial, in such manner, as the same might have been had or used before the making of this act.*

12. *And be it enacted by the authority aforesaid, That no person or persons shall be sued or impleaded for any offence against this act, unless the party offending be sued or impleaded for the same within two years at farthest after such time, wherein the offence shall be committed, in case the party grieved shall not be then in prison; and if he or she shall be in prison, then within the space of two years after the decease of the person imprisoned, or his or her delivery out of prison, which shall first happen.*

13. *And be it enacted by the authority aforesaid, That if any information, suit, or action shall be brought or exhibited against any person or persons for any offence committed, or to be committed against this act, it shall be lawful for such defendants to plead the general issue, that they are not guilty, or that they owe nothing, and to give the special matter in evidence; and if such special matter, in case it were duly pleaded, had been good and sufficient in law to have discharged the said defendant or defendants against the said information, suit, or action; the same, so given in evidence, shall be as available to him or them to all intents and purposes, as if he or they had sufficiently pleaded, set forth, or alleged the said matter in bar or discharge of such information, suit, or action.*

14. *And to the intent, that no person may avoid his trial at the sessions of oyer and terminer, or general gaol delivery, by procuring his removal at such time before the commencement of the court, as he cannot be brought back to receive his trial at the same court; Be it enacted by the authority aforesaid,* That after the sessions of oyer and terminer, or general gaol delivery shall be proclaimed for that county, where the prisoner is detained, such prisoner shall not be removed from the common gaol upon any habeas corpus granted in pursuance of this act; but, upon any such habeas corpus, shall be brought before the justice or justices of the said court of oyer and terminer, or general gaol delivery, in open court, who shall thereupon do what to justice appertains. *Provided nevertheless,* That after the sessions of oyer and terminer, or general gaol delivery are ended, any person detained may have his or her habeas corpus, according to the direction of this act.

1796.

Prisoners not to be removed by habeas corpus, after sessions of oyer and terminer and general gaol delivery have been proclaimed for the county.

15. *And be it enacted by the authority aforesaid,* That no information, for a matter merely criminal, for which an indictment will lie, and in which no civil right is involved, nor forfeiture or penalty given by law to any private person or common informer, is prosecuted for, shall, from and after the passing of this act, be exhibited or sustained in any court of this state.

In whose cases informations shall not be exhibited or sustained.

16. *And be it enacted by the authority aforesaid,* That the act, entitled "An act for preventing malicious prosecutions by informations," passed the eleventh day of March, in the year of our Lord, one thousand seven hundred thirteen-fourteen, shall be, and the same is hereby repealed.

A former act respecting informations, repealed.

AN ACT for the relief of certain persons, having paid moneys to the commissioners and agents of forfeited estates.

PAT. 179.

Passed the 13th of March, 1796.

AN ACT concerning distresses.

PAT. 178.

Passed the 16th of March, 1796.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That all distresses made or taken, or to be made or taken, for any cause whatsoever, shall be reasonable and not too great; and if any person shall take great and unreasonable distress or distresses, he or she shall answer the damages to the party aggrieved.

Distress to be reasonable, or if not, the party to pay damages.

2. *And be it enacted by the authority aforesaid,* That no person shall take any distress wrongfully, or cause any distress to be driven or conveyed out of the county where it shall be taken; and every person, who shall do so of his or her own authority, and without judgment, shall answer the damages to the party aggrieved.

No distress to be taken wrongfully, or driven out of the county.

1795.

Articles not
liable to be
distrained.

3. *And be it enacted by the authority aforesaid,* That no person shall be distrained for any cause whatsoever, by his or her beasts of the plough, or sheep, or by the implements of his or her trade, while other distress or chattels, whereof the debt or demand may be levied, or sufficient for the same, may be found; except the distraining and impounding beasts found on the ground of any person damage feasant.

Beasts dis-
trained, to be
put in open
pound in the
township.

4. *And be it enacted by the authority aforesaid,* That beasts, when they are distrained for any cause whatsoever, shall be put in open pound, in the township or precinct where they shall be taken; and they, to whom such beasts belong, may give them their feeding, without disturbance, so long as they shall be impounded as aforesaid.

Goods dis-
trained, not to
be impounded
in different
places.

5. *And be it enacted by the authority aforesaid,* That no goods or chattels, distrained or taken by way of distress, for any cause whatsoever, at one time, shall be impounded in several places, whereby the owner or owners of such distress shall be constrained to sue several replevins for the delivery of the said distress, so taken at one time, upon pain, that every person offending therein shall, for every such offence, forfeit to the party grieved forty dollars, and treble damages, to be recovered, by action of debt, in any court of record where the same shall be cognizable.

Goods dis-
trained for rent
to be appraised
and sold, if the
tenants shall
not replevy
them within a
limited time.

6. *Whereas* the most usual and ready way for recovery of arrears of rent is by distress, yet such distresses not being to be sold, but only detained as pledges for enforcing the payment of such rent, the persons distraining have little benefit thereby; for remedy whereof, *Be it enacted by the authority aforesaid,* That where any goods or chattels shall be distrained for any rent reserved and due upon any demise, lease, or contract whatsoever and the tenant or owner of the goods so distrained shall not within ten days next after such distress taken, and notice thereof with the cause of such taking, left at the chief mansion-house, or other most notorious place on the premises charged with the rent distrained for, replevy the same, with sufficient security to be given to the sheriff, according to law, that then, in such case, after such distress and notice as aforesaid, and expiration of the said ten days, the person distraining shall and may, with the sheriff or under-sheriff of the county, or with the constable of the township, precinct, or place where such distress shall be taken (who are hereby required to be aiding and assisting therein) cause the goods and chattels, so distrained, to be appraised by two sworn appraisers, (whom such sheriff, under-sheriff, or constable are hereby empowered to summon for that service, and swear well and truly to appraise the same according to the best of their understanding) and after such appraisement, shall at may lawfully sell, at public vendue, the goods and chattels distrained, (giving five days public notice, by advertising the articles to be sold, and time and place of sale, in at least three of the most public places in the township where such distress shall be made) for the best price that can be gotten for the same, towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress, and

praisement, and sale, leaving the overplus, if any, in the hands of such sheriff, under-sheriff, or constable, for the owner's use.

1795.

7. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any person or persons, having rent in arrear and due upon any such demise, lease, or contract as aforesaid, to seize and secure any sheaves, cocks, or stacks of wheat, rye, buckwheat, barley, oats, indian corn, or other corn or grain, or wheat, rye, buckwheat, barley, oats, indian corn, or other corn or grain loose or in the straw, or flax, hemp, or hay, lying or being in any barn, crib, or granary, or upon any hovel, stack, rick, or barrack, or elsewhere, upon any part of the land charged with such rent, and to lock up or detain the same in the place, where the same shall be found, for and in the nature of a distress, until the same shall be replevied, upon such security to be given as aforesaid; and in default of replevying the same as aforesaid, within the time aforesaid, to sell the same, after the appraisement thereof, in manner as above directed.

Specification of articles made liable to be distrained for rent, appraised and sold.

8. *And be it enacted by the authority aforesaid,* That it shall and may be lawful for all and every lessor or landlord, lessors or landlords, or his, her, or their steward, bailiff, receiver, or other person or persons empowered by him, her, or them, to take and seize, as a distress for arrears of rent, any of the goods and chattels of his, her, or their tenant or tenants, and not of any other person, although in possession of such tenant or tenants, which may be found on the demised premises, except such goods and chattels as are by law privileged from distress; and also any hogs, horses, cattle, or stock, of his, her, or their respective tenant or tenants, and not of any other person, although in possession of such tenant or tenants, feeding or depasturing on the demised premises, or upon any common appendant, or appurtenant, or any ways belonging to all or any part of the premises demised or holden; and also to take or seize all or any wheat, rye, buckwheat, barley, oats, indian corn, or other corn or grain, and grass, hops, roots, pulse, fruits, vegetables, or other produce whatsoever, growing or being on the premises, or any part thereof, so demised or holden, as a distress for arrears of rent, and the same to cut, dig, pull, gather, make, cure, carry, and lay up in some proper and convenient place on the premises, and for want thereof, in some other place to be procured by such lessor or landlord, lessors or landlords, (due notice of such place being given to such tenant or lessee, or left at his or her place of abode) and to appraise, sell, and dispose of the same in the time and manner herein before directed. *Provided always,* That it shall not be lawful for any lessor or landlord, at one time, to distrain for more than one year's rent in arrear, and that such distress must be made within six months after the same shall become due.

Further specification of articles made liable for the payment of rent; but the goods and chattels of others, though in possession of the tenant, are not to be distrained.

Landlord to distrain only for one year's rent, and within six months.

9. *And be it enacted by the authority aforesaid,* That it shall and may be lawful for any person or persons, lawfully taking any distress for any kind of rent, to impound or otherwise secure the distress so made, of what nature or kind soever it may be, in such place or on such part of the premises, as shall be

Distresses may be impounded, or otherwise secured, and sold on the premises.

1795.

most convenient for the purpose, and to appraise, sell, and dispose of the same upon the premises, in like manner as any person taking a distress for rent may do off the premises, by virtue of this act; and it shall and may be lawful to and for any person or persons whatsoever, to come and go to and from such place or part of the premises, where any distress for rent shall be impounded or secured as aforesaid, in order to view, appraise, and buy, and also to carry off or remove the same, on account of the purchaser thereof.

Treble damages to be recovered for pound breach or rescous of goods distrained.

10. *And be it enacted by the authority aforesaid,* That if any pound-breach or rescous shall be made of any goods, chattels, or other things distrained for rent, and impounded, or otherwise secured, by virtue of this act, the person or persons aggrieved thereby shall, in a special action upon the case for the wrong thereby sustained, recover his, her, or their treble damages and costs of suit against the offender or offenders, or any of them, in any such rescous or pound-breach, or against the owner of the goods distrained, in case the same be afterwards found to have come to his or her use or possession.

If goods be distrained and sold, where no rent is due, the owner shall recover double the value of them, with costs.

11. *Provided always, and be it further enacted by the authority aforesaid,* That in case any such distress and sale as aforesaid shall be made, by virtue or color of this present act, for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the person or persons distraining, or to him or them, in whose name or names, or right, such distress shall be taken as aforesaid, that then the owner of such goods or chattels distrained and sold as aforesaid, his or her executors or administrators, shall and may, by action of trespass, or upon the case, to be brought against the person or persons so distraining, or any of them, his, her, or their executors or administrators, recover double of the value of the goods or chattels so distrained and sold, together with full costs of suit.

Distress for rent shall not be unlawful, for any irregularity of the distrainer; but the party grieved may recover special damages with costs; unless tender of amends be made before action brought.

12. *And be it enacted by the authority aforesaid,* That where any distress shall be made for any kind of rent justly due, and any irregularity or unlawful act shall be afterwards done by the party or parties distraining, or by his, her, or their agent or agents, the distress itself shall not be therefor deemed to be unlawful, nor the party or parties making it be deemed a trespasser or trespassers ab initio; but the party or parties aggrieved by such unlawful act or irregularity shall and may recover full satisfaction for the special damage, which he, she, or they shall have sustained thereby, and no more, in an action of trespass, or on the case, at the election of the plaintiff or plaintiffs. *Provided,* That where the plaintiff or plaintiffs shall recover in such action, he, she, or they shall be paid his, her, or their full costs of suit, and have the like remedies for the same as in other cases of costs: *And provided also,* That no tenant or tenants, lessee or lessees, shall recover in any action for any such unlawful act or irregularity, as aforesaid, if tender of amends hath been made by the party or parties distraining, his, her, or their agent or agents, before such action brought.

13. *And be it enacted by the authority aforesaid,* That in all actions of trespass, or upon the case, to be brought against any person or persons entitled to rents or services of any kind, his, her, or their bailiff or receiver, or other person or persons, relating to any entry by virtue of this act, or otherwise, upon the premises chargeable with such rents, or to any distress or seizure, sale or disposal of any goods or chattels thereupon, it shall and may be lawful to and for the defendant or defendants in such actions to plead the general issue, and give the special matter in evidence; and in case the plaintiff or plaintiffs shall become nonsuit, discontinue his, her, or their action, or have judgment against him, her, or them, the defendant or defendants shall recover double costs of suit.

1795.

If against a person entitled to rent, an action be brought for anything done by virtue of this act, he may plead the general issue, and give the special matter in evidence.

14. *And be it enacted by the authority aforesaid,* That if any tenant or tenants, lessee or lessees, for life or lives, term of year or years, at will, sufferance, or otherwise, of any messuage, lands, tenements, or hereditaments, shall convey away or carry off or from such premises, his, her, or their goods or chattels, leaving the rent or any part thereof unpaid, it shall and may be lawful to and for every landlord or lessor, landlords or lessors, or any person or persons by him, her, or them for that purpose lawfully empowered, within the space of thirty days next after such conveying away or carrying off such goods or chattels as aforesaid, to take and seize such goods and chattels, wherever the same shall be found, as a distress for the said arrears of rent, and the same to sell, or otherwise dispose of, in such manner as if the said goods and chattels had actually been distrained by such lessor or landlord, lessors or landlords, in and upon such premises, for such arrears of rent. *Provided always,* That no landlord or lessor, or other person entitled to such arrears of rent, shall take or seize any such goods or chattels, as a distress for the same, which shall be sold bona fide, or for a valuable consideration, before such seizure made, to any person not privy to such fraud as aforesaid.

If tenant remove the goods, landlord may seize them any where, within thirty days after such removal.

But not to extend to goods bona fide sold before seizure.

15. *And to deter tenants from such conveying away their goods and chattels, leaving the rent unpaid, and others from wilfully aiding or assisting therein, or concealing the same; Be it further enacted by the authority aforesaid,* That if any such tenant or lessee shall remove and convey away his or her goods or chattels as aforesaid, or if any person or persons shall wilfully and knowingly aid or assist any such tenant or lessee in such conveying away or carrying off any part of his or her goods or chattels, or in concealing the same, all and every person or persons, so offending, shall forfeit and pay to the landlord or landlords, lessor or lessors, his, her, or their heirs or assigns, from whose estate such goods and chattels were so carried off as aforesaid, double the value of the goods or chattels by him, her, or them respectively carried off or concealed as aforesaid, to be recovered by action of debt in any court of record.

Tenants, who remove goods, leaving the rent unpaid, and persons, who assist them, to forfeit double the value of the said goods.

16. *And be it enacted by the authority aforesaid,* That where any goods or chattels, conveyed or carried away as aforesaid, by any tenant or tenants, lessee or lessees, his, her, or their servant

Landlord, with a constable, may break doors, and en-

1795.

ter suspected places to take goods, which have been removed to prevent their being distrained for rent.

or servants, agent or agents, or other person or persons aiding or assisting therein, shall be put, placed or kept in any house, barn, stable, out-house, yard, close, or place locked up, fastened, or otherwise secured, so as to prevent such goods or chattels from being taken and seized as a distress for arrears of rent, it shall and may be lawful to and for the landlord or landlords, lessor or lessors, his, her, or their heirs or assigns, or his, her, or their steward, bailiff, receiver, or other person or persons empowered to take and seize, as a distress for rent, such goods and chattels, first calling to his, her, or their assistance, the constable, or one of the constables or other peace officer of the township, precinct, or place, where the same shall be suspected to be concealed, who are hereby required to aid and assist therein, and in case of a dwelling-house, (oath being also first made, before some justice of the peace, of a reasonable ground to suspect, that such goods and chattels are therein) in the day-time, to break open and enter into such house, barn, stable, out-house, yard, close, or place, and to take and seize such goods and chattels, for the said arrears of rent, as he, she, or they might have done by virtue of this act, if such goods and chattels had been put in any open field or place.

Distress for rent in arrear may be made after the determination of a lease for life, or years, or at will.

17. *And whereas* tenants per auter vie, and lessees for years or at will, frequently hold over the tenements to them demised, after the determination of such leases; *And whereas*, after the determination of such or any other leases, no distress can by law be made for any arrears of rent, that grew due on such respective leases before the determination thereof; for remedy whereof, *Be it enacted by the authority aforesaid*, That it shall and may be lawful to and for any person or persons, having any rent in arrear and due upon a lease for term of life or lives, year or years, or at will, ended or determined, to distrain for such arrears, after the determination of the said respective leases, in the same manner as they might have done if such lease or leases had not been ended or determined. *Provided*, That such distress be made within the space of six calendar months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the tenant, from whom such arrears became due.

If a person be entitled to rent for the life of another, he may sue or distrain for the same, after his death.

18. *And be it enacted by the authority aforesaid*, That if any person, who now hath, or hereafter shall have, any rents or fee-farms, for term of life or lives, of any other person or persons, and the said rent or fee-farm now be, or hereafter shall be due and behind, and unpaid in the life of such person or persons, for whose life or lives the estate of the said rent or fee-farm did depend or continue, and after the said person or persons do die, then he or she, unto whom the said rent or fee-farm was due, his or her executors or administrators, shall and may have an action of debt against the tenant in demesne, who ought to have paid the same when it was first due, his or her executors or administrators; and also may distrain for the same arrearages upon the lands and tenements, out of which the said rents or fee-farms were issuing and payable, in the like manner and form, as

he or she ought or might have done, if the person or persons, by whose death the aforesaid estate in the said rents and fee-farms was determined and expired, were in full life, and the avowry for the taking of the same distress to make in manner and form aforesaid, and make appraisement and sale of such distress, in manner aforesaid.

19. *And be it enacted by the authority aforesaid*, That if any man, who now hath or hereafter shall have, in the right of his wife, any estate in fee-simple, fee-tail, or for term of life, of or in any rents or fee-farms, and the same rents or fee-farms now be, or hereafter shall be due, behind, and unpaid, in the life-time of the said wife, then the said husband, after the death of his said wife, his executors or administrators, shall have an action of debt for the said arrearages, against the tenant of the demesne, who ought to have paid the same, his or her executors or administrators; and also, that the said husband, after the death of his said wife, may distrain for the said arrearages, in like manner and form, as he might have done, if his wife had been then living, and for the same distress make avowry upon his matter aforesaid, and make appraisement and sale of such distress in the manner aforesaid.

20. *And whereas*, by the common law, the executors or administrators of tenants in fee-simple, tenants in fee-tail, and tenants for term of life, of rent-service, rent-charge, rent-seck, and fee-farms, have no remedy to recover such arrearages of the said rents or fee-farms, as were due unto their testators or intestates in their lives, nor may the heirs of such testator, nor any person, having the reversion of his or her estate after his or her decease, distrain, or have any lawful action to levy any such arrears of rents or fee-farms; for remedy whereof, *Be it enacted by the authority aforesaid*, That the executors or administrators of any such person or persons, unto whom any such rent or fee-farm is or shall be due, and not paid at the time of his, her, or their death, shall and may have an action of debt, for all such arrearages, against the tenant or tenants, who ought to have paid the said rent, or fee-farm, so being behind in the life of the testator or intestate, or against the executors or administrators of such tenant or tenants: that it shall be lawful for every such executor or administrator of any such person or persons, unto whom such rent or fee-farm is or shall be due, and not paid at the time of his, her or their death, as aforesaid, to distrain for the arrearages of all such rents and fee-farms, upon the lands, tenements, and hereditaments, which were, are, or shall be charged with the payment of such rents or fee-farms, and chargeable to the distress of the testator or intestate, so long as the said lands, tenements, or hereditaments continue, remain, and be in the seisin or possession of the said tenant in demesne, who ought immediately to have paid the said rent or fee-farm, so being behind, to the said testator or intestate, in his or her life-time, or in the seisin or possession of any other person or persons, claiming the said lands, tenements and hereditaments only by or from the said tenant, by purchase, gift or descent, in like manner and form as the said

1795.

If a husband be entitled to rent, in right of his wife, he may sue or distrain for it after her death.

Executors or administrators of persons entitled to rent-service, rent-charge, rent-seck, or fee-farm, may sue or distrain for the same.

1795.

testator or intestate might or ought to have done in his or her life-time; and the said executors or administrators shall, for the same distress, lawfully make avowry upon their matter aforesaid, and make appraisement and sale of such distress in the manner aforesaid.

If one distress be not sufficient, another may be made.

21. *And be it enacted by the authority aforesaid,* That in all cases where the value of the goods and chattels, distrained as aforesaid, shall not be found to be of the full value of the arrears distrained for, the party, to whom such arrears are or shall be due, his or her executors, administrators, or legal representatives, may, from time to time, distrain for the residue of the said arrears: *Provided,* That such distress shall be made within the time limited by this act.

If a justice of the peace issue a warrant of distress, by virtue of any law, he may order the goods distrained to be sold within a limited time.

22. *And be it enacted by the authority aforesaid,* That in all cases, where any justice of the peace is or shall be required or empowered, by any law of this state, to issue a warrant of distress for the levying of any penalty inflicted, or any sum of money directed to be paid by such law, and no mode pointed out for the disposal of such distress, it shall be lawful for the justice, granting such warrant, therein to order and direct the goods and chattels, so to be distrained, to be sold and disposed of within a certain time to be limited in such warrant, so as such time be not less than four days, nor more than ten days, unless the penalty or sum of money, for which such distress shall be made, together with the reasonable charges, (to be taxed by such justice) of taking and keeping such distress, be sooner paid; and the officer, making such distress, shall and may deduct the reasonable charges of taking, keeping and selling such distress, (to be taxed as aforesaid) out of the money arising by such sale, and the overplus, if any, after such charges, and also the said penalty or sum of money shall be satisfied and paid, shall be returned, on demand, to the owner of the goods so distrained; and the officer executing such warrant shall shew the same to the person, whose goods are distrained, and shall suffer a copy thereof to be taken.

Provided such law shall not otherwise direct.

Provided always, That this clause shall not be construed to affect any law, wherein the sale of any distress, made on account of any penalty, fine, or sum of money directed to be paid, and the manner and time of such sale, are by such law particularly provided for and ascertained.

This act not to affect former contracts between landlords and tenants.

23. *Provided always, and it is hereby further enacted,* That nothing in this act contained shall be so construed as to affect the recovery of rent upon any contract made between landlord and tenant, or any lease entered into before the passing of this act.

PAT. \$77.

AN ACT for rendering the proceedings upon informations in the nature of a quo warranto, more speedy and effectual.

Passed the 17th of March, 1795.

How an information, in nature of a quo warranto, may

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same That in case any person or persons shall usurp, intrude into, o

unlawfully hold or execute any office or franchise within this state, it shall and may be lawful to and for the attorney-general, with the leave of the supreme court, to exhibit one or more information or informations in the nature of a quo warranto, at the relation of any person or persons, desiring to sue or prosecute the same, who shall be mentioned in such information or informations to be the relator or relators against such person or persons, for usurping, intruding into, or unlawfully holding and executing any such office or franchise, and to proceed therein in such manner as is usual in cases of informations in the nature of a quo warranto; and if it shall appear to the said supreme court, that the several rights of divers persons to the same office or franchise may properly be determined on one information, it shall and may be lawful for the said court to give leave to exhibit one such information against several persons, in order to try their respective rights to such office or franchise; and such person or persons, against whom such information or informations in nature of a quo warranto shall be sued or prosecuted, shall appear and plead as of the same term, in which the said information or informations shall be filed, unless the said court shall give further time to such person or persons, against whom such information or informations shall be exhibited, to plead, and such person or persons as shall sue or prosecute such information or informations in nature of a quo warranto, shall proceed thereupon with the most convenient speed that may be.

2. *And be it enacted by the authority aforesaid,* That in case any person or persons, against whom any information or informations in the nature of a quo warranto shall, in any of the said cases, be exhibited in the said supreme court, shall be found or adjudged guilty of an usurpation or intrusion into, or unlawfully holding and executing any such office or franchise, it shall and may be lawful to and for the said court, as well to give judgment of ouster against such person or persons of and from such office or franchise, as to fine such person or persons respectively for his or their usurping, intruding into, or unlawfully holding and executing any such office or franchise; and also it shall and may be lawful to and for the said supreme court to give judgment, that the relator or relators, in such information named, shall recover his or their costs of such prosecution; and if judgment shall be given for the defendant or defendants in such information, he or they, for whom such judgment shall be given, shall recover his or their costs therein expended against such relator or relators; such costs to be levied by fieri facias, or capias ad satisfaciendum, as in other cases.

3. *And be it enacted by the authority aforesaid,* That it shall and may be lawful to and for the said supreme court to allow to such person or persons respectively, against whom any information in the nature of a quo warranto in any of the cases aforesaid shall be sued or prosecuted, or to the person or persons who shall sue or prosecute the same, such convenient time respectively to plead, reply, rejoin, or demur, as to the said court shall seem just and reasonable.

1795.

be exhibited against an intruder into office.

Several rights of different persons, may, with leave of the court, be determined on one information.

If he be found guilty, judgment of ouster to be awarded against him, and he to pay costs.

If judgment be for him, he shall recover costs against the relator.

The court to allow the parties a reasonable time to plead, reply, or demur.

1795.

PAT. 178.

AN ACT to prevent the holding of appointments and commissions, in certain cases, under this state and the United States at the same time.

Passed the 17th of March, 1795.

If a person holding an office under this state, be elected to congress, and accept, his office shall be vacated.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That every person holding a civil commission, or an appointment to an office within this state, and under the authority thereof, and shall hereafter be elected a member to represent this state in the senate or house of representatives in the congress of the United States, and shall accept of the appointment, or take his seat agreeably thereto; the commission or appointment of such person, under the authority of this state, within the same, shall be, and the same is hereby declared to be vacated and void.

If a member of the state legislature be elected to congress, and accept, his seat in the former shall be vacated.

2. *And be it further enacted by the authority aforesaid,* That if any member of the council and general assembly of this state shall be elected to represent this state in the senate or house of representatives of the United States, and shall accept thereof, or shall accept of any office or appointment under the government of the United States, his seat in the legislature of this state is hereby declared to be vacated, and an election to fill such vacant seat shall be held, as if said member had removed out of this state.

PAT. 179.

AN ACT for the prevention of waste.

Passed the 17th of March, 1795.

A guardian not to suffer or make waste of the inheritance of his ward.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That no guardian shall make or suffer any waste, sale or destruction of the inheritance of his ward, or of those things that he hath or may have in his custody; but shall safely keep the same inheritance to the use of the said heir, and keep and sustain the houses, gardens and other things pertaining to the same lands, by and with the issues and profits thereof, and shall deliver the same to his ward, when he comes to his full age, in as good order and condition at least as such guardian received the same, and shall answer to such heir for the residue of such issues and profits of the same inheritance by a lawful account, saving to the guardian his reasonable charges and expenses; and if any guardian shall make or suffer any waste, sale or destruction, of the inheritance of his ward, he shall lose the same custody, and shall recompense the ward thrice as much as the damages shall be assessed at by the jury.

If guardian suffer or make waste, the ward shall recover treble damages.

Tenant shall not commit or suffer waste.

2. *And be it enacted by the authority aforesaid,* That no tenant for life or years, or for any other term, shall, during the term make or suffer any waste, sale or destruction of houses, gardens orchards, lands or woods, or any thing belonging to the tene-
ments demised, without special license in writing, making mention that he may do it.

3. *And be it further enacted by the authority aforesaid, That* any person may have a writ of waste out of chancery against him or her, who holdeth by curtesy, or otherwise, for term of life, or for term of years, or other term, or a woman in dower, as well as against guardians; and whoever shall be convicted of waste shall lose the thing or place wasted, and shall recompense thrice as much as the damages shall be assessed at by the jury.

1795.

Action of waste given against tenant by curtesy, in dower, for life or years.

4. *And be it enacted by the authority aforesaid, That,* in all actions of waste, if the defendant come not at the return of the original writ, he shall be attached, and if he come not at the return of the attachment, he shall be distrained, and if he come not after the distress, or if he come, and afterwards make default, the sheriff shall be commanded, that in his proper person, he take with him twelve good and lawful men of his county, and go to the place wasted, and inquire of the waste done, and return an inquest, and after the inquest returned, the plaintiff shall have judgment to recover the place wasted, and treble the damages found by the inquest.

Proceedings in waste, where the defendant does not appear, or makes default.

5. *And be it enacted by the authority aforesaid, That* when two or more, do or shall hold any lands, tenements, hereditaments, houses, woods, or other such thing, in common, as parceners, tenants in common, or joint-tenants, wherein none knows his or her several part, and some or one of them do waste, an action shall lie by a writ of waste; and when it shall come unto judgment, the defendant shall choose either to take his or her part in a place certain, by the sheriff and a jury to be assigned, or else to give such security, as the court shall allow and deem sufficient, not to commit any further waste, and to take nothing from thenceforth in the same lands, tenements, hereditaments, houses, woods, or other such thing, but as his or her partners will take; and if he or she choose to take his or her part in a place certain, the same shall be assigned to him or her in the part wasted, as it was before he or she committed the waste; but if the defendant shall not choose to take his or her part in a place certain, or if the waste exceed his or her proportion, the plaintiff shall recover against such defendant such damages as shall be found by the jury or inquest.

Proceedings in waste between parceners, tenants in common and joint-tenants.

6. *And be it enacted by the authority aforesaid, That* every heir, in whose ward soever he or she be, and whether he or she be in ward or not, and as well within age as of full age, shall have his or her recovery, by a writ of waste, for waste and destruction made in houses, lands, or tenements of his or her inheritance, as well in the time of his or her ancestor or ancestors, as at any other time after the inheritance descended or come to him or her, and shall be answered unto for the same, and shall recover the houses, lands or tenements wasted, and treble damages as aforesaid.

An heir may bring an action for waste committed during the life of his ancestor.

7. *And be it enacted by the authority aforesaid, That* where any tenant for term of life, or for another's life, or for term of years, or any other term, hath or shall let or grant his or her estate, in the lands and tenements demised to or held by him or

A tenant who lets or grants his estate to another, shall, if he take the profits, be liable to an action for waste

1795.

her, to any person or persons, and shall still continue to occupy the same lands and tenements, or to take the profits thereof, and shall commit or suffer waste and destruction in the same lands and tenements, to the disinheritation of him, her or them, in the reversion, he, she or they, to whom the reversion doth or shall appertain, may, in such case, have and maintain a writ of waste against the said tenant for term of life, or of another's life, or for term of years, or other term, and recover against him or her the place wasted, and his, her, or their treble damages for the waste done, if the said tenant was punishable of or for waste before he or she leased or granted over his or her estate as aforesaid, but not otherwise.

No action to be brought against a person, in whose house a fire shall accidentally begin.

8. *And be it enacted by the authority aforesaid,* That no action, suit or process whatsoever shall be had, maintained or prosecuted against any person, in whose house or chamber any fire shall accidentally begin, or any recompense be made by such person for any damage suffered or occasioned thereby: *Provided,* That nothing in this section shall extend to defeat or make void any contract or agreement made or to be made between landlord and tenant.

PAT. 180.

AN ACT for the more easy and expeditious recovery of penalties on forfeited recognizances, and for appropriating the moneys arising from the same, and from fines and amercements.

Passed the 18th of March, 1795.

Forfeited recognizances in the supreme court, and quarter-sessions of the peace, how to be prosecuted.

1. **WHEREAS** it frequently happens that recognizors neglect or refuse to appear in the proper courts, agreeably to the conditions of their respective recognizances; and whereas no easy and expeditious mode of prosecuting such recognizors has hitherto been established; therefore, *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That if any person hath been or shall be bound by recognizance to the state of New-Jersey, or to the governor or commander in chief for the time being, for the use of the state, with condition for his or her appearance at the supreme court, or at the general quarter-sessions of the peace, to be held in and for any county within the state, and if such person hath not appeared, or shall not appear agreeably to the condition of such recognizance, then the court, in which such recognizor may be bound to appear, shall be and they are hereby empowered and directed, on motion of the attorney-general, or attorney appointed by the court to prosecute the pleas in his absence, to award a writ of scire facias against such recognizor, to shew cause why the recognizance ought not to be forfeited, judgment to be entered against the recognizor, and execution to issue thereon; and if such recognizor shall appear at the return of such writ, and not shew or allege any matter sufficient to discharge him or her from his or her recognizance, or being returned, "warned," or upon two writs of scire facias it be returned, "that the recognizor had nothing whereby to be summoned," or

"could not be found in the county," shall make default, that thereupon the recognizance shall be forfeited, judgment final shall be given against the said recognizor as in case of debt, and execution shall issue thereon accordingly; and that in every such action, suit, or writ of scire facias, against every such recognizor, costs shall be awarded and allowed.

1795.

2. *And be it enacted by the authority aforesaid,* That if any person hath been, or shall be bound by recognizance to the state of New-Jersey, or to the governor or commander in chief for the time being, for the use of the state, with condition for his or her appearance at the sessions of oyer and terminer and general gaol delivery, or either of them, to be held in any county of the state, and if such person hath not appeared, or shall not appear agreeably to the condition of such recognizance, and his or her default hath been or shall be recorded in the minutes of the said court or courts, then it shall and may be lawful for the supreme court, on motion of the attorney-general, to award a writ of scire facias against such recognizor, to shew cause why the recognizance ought not to be forfeited, judgment to be entered against the recognizor, and execution to issue thereon, and to cause such further proceedings to be had thereupon, with costs, as are above mentioned and directed.

Forfeited recognizances in the courts of oyer and terminer and general gaol delivery, where and how to be prosecuted.

3. *And be it enacted by the authority aforesaid,* That it shall be the duty of the attorney-general, or attorney appointed to prosecute the pleas of the state in his absence, to move the court, having jurisdiction of such forfeited recognizance, for one or more writ or writs of scire facias, and the same, if awarded, to prosecute to judgment and execution; and if such attorney-general or attorney shall neglect or refuse to move in proper time and place for such writ or writs of scire facias, or to prosecute the same to effect, he shall, on conviction thereof before the council, on an impeachment exhibited by the house of assembly, be disabled to act as an attorney or solicitor in any court of this state for the term of one year.

Duty of attorney-general or attorney acting in his stead to prosecute forfeited recognizances.

4. *And be it enacted by the authority aforesaid,* That if on return of the amount of any debt, fine or forfeiture, due or belonging to this state, made, agreeably to any law of the state, to the attorney-general for the time being, by the treasurer or auditor of accounts for prosecution, such attorney-general shall refuse, or for the space of three calendar months neglect to prosecute any person or persons for such debt, fine or forfeiture, so to him returned, he shall, on impeachment and conviction thereof as aforesaid, be punished in the manner herein before directed.

How to be punished for neglect of such duty.

Attorney-general, if he neglect to prosecute for debts, &c, due to the state, how to be punished.

5. *And be it enacted by the authority aforesaid,* That every sheriff shall, annually, at the close of his office, or within one month after, pay into the treasury of this state, such sums of money as he shall have collected or received in virtue of executions issued against recognizors, or arising from fines and amercements awarded by any court of this state against any offender or offenders, retaining after the rate of five per centum for his trouble in collecting, receiving and paying the same; and every sheriff,

Sheriffs, who receive fines and forfeitures to pay them annually, into the treasury, under the penalty of \$200, besides being liable for the whole amount.

1796.

who shall neglect or refuse to pay all such sums of money into the treasury agreeably to the directions of this act, shall forfeit for every offence two hundred dollars, to be recovered by and in the name of the treasurer of the state for the time being, in any court of record, where the same shall be cognizable, with costs of suit, and applied to and for the use of the state, and shall also be subject to an action of debt or trespass on the case, at the suit of the said treasurer, on behalf of the state, for recovery of the whole sum so by him received, with interest and costs of suit.

Certain acts
repealed;

6. *And be it enacted by the authority aforesaid,* That the act, entitled, "An act for the more easy and expeditious recovery of penalties on forfeited recognizances, and for the appropriation of the moneys arising from the same, and from fines and amercements, and for other purposes therein mentioned," passed the twenty-second day of September, in the year of our Lord, one thousand seven hundred and seventy-seven, and a supplementary act thereto, passed the eleventh day of June, in the year of our Lord, one thousand seven hundred and seventy-nine, and the act, entitled "An act to enforce the recovery of the penalties on forfeited recognizances, and such other debts and forfeitures due to the state as are therein mentioned, and to authorize any person to prosecute and defend his own suit in any court within this state, and to repeal part of an act therein mentioned," passed the twenty-fourth day of December, in the year of our Lord, one thousand seven hundred and eighty-two, shall be and the same are hereby repealed: *Provided nevertheless,* That such repeal shall not affect any debt, demand, penalty, forfeiture, fine, or sum of money already due, forfeited, or arisen upon the said recited acts, or any of them, or any writ or writs, suit or suits heretofore issued or instituted under or by virtue of the said acts, or any of them; but that all and every such debt, demand, penalty, forfeiture, or sum of money, and all and every such writ or writs, suit or suits, shall be proceeded upon and prosecuted to final judgment, execution and effect, in the same manner, as if this act had not been made.

but such re-
peal not to af-
fect antece-
dent fines,
debts and suits.

AN ACT for the better regulation of actions of replevin.

PAT. 182.

Passed the 19th of March, 1796.

A writ of re-
plevin to be
issued for
goods and
chattels
wrongfully
detained.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That if the goods or chattels of any person be taken and wrongfully detained, the sheriff, by a writ of replevin, shall cause the same goods or chattels to be replevied and delivered, and shall summon the person, who took them, to appear at the return of the said writ, and answer the plaintiff of the taking and unjust detention of the same.

2. *And be it enacted by the authority aforesaid,* That all writs of replevin shall issue out of the supreme court, or out of the inferior court of common pleas of the county, where the distress was made, and the said writs shall be made returnable to the court out of which they issued.

1795.

Writs of replevin shall issue out of supreme court and common pleas.

Sheriff authorized to break open houses to make replevin.

3. *And be it enacted by the authority aforesaid,* That if any person shall take the goods and chattels of another, and convey and put them into any stable, building, house, or place of strength, and the person, from whom the same goods or chattels shall be taken, sues for a replevin thereof, the sheriff shall solemnly demand deliverance thereof at the stable, building, house, or place, where the same are detained; and if neither the taker, nor any person on behalf of such taker, shall, upon demand, deliver the same, or if no person shall come upon such demand to deliver the same, the sheriff shall take the power of his county and break open such stable, building, house, or place of strength, and make replevin according to the writ.

4. *And be it enacted by the authority aforesaid,* That every sheriff, before he makes deliverance of any goods or chattels, by virtue of any writ of replevin, shall take of the plaintiff sufficient security to prosecute the suit, and to return the same goods or chattels, if return thereof shall be adjudged, and if any sheriff shall take security otherwise, or neglect to take such security, he shall answer for the value of the goods and chattels, and the person, who distrains, shall have his or her recovery by writ, that he shall restore to him or her such or so many goods or chattels.

Sheriff shall, before he delivers the goods, take security to prosecute the suit, or to answer for the value of the goods.

5. *And be it enacted by the authority aforesaid,* That if the plaintiff, in any action of replevin, shall make default, and a return of the goods or chattels is awarded to the distrainer, the sheriff shall be commanded, by a judicial writ, issuing out of the same court, in which the matter was moved, and no other, to make return of the goods or chattels unto the distrainer; in which writ it shall be expressed, that the sheriff shall not deliver them without writ, making mention of the judgment; and if the plaintiff come unto the said court and desire replevin of the same goods and chattels, he or she shall have a judicial writ, commanding, that the sheriff, taking security for the suit, and also for the return of the same goods and chattels, or for the value of them, if return shall be awarded, shall deliver unto the plaintiff the goods and chattels before returned; and the distrainer shall be attached to come and be, at a certain day, at the court, in which the plea was moved, to answer the plaintiff for the taking and unjustly detaining the same; and if the plaintiff make default again, or for another cause return of the distress be awarded, being now twice replevied, the distress shall remain irrepleviable. But if a distress be taken anew and for a new cause, the process aforesaid shall be observed in the same new distress.

If return of goods be awarded, the plaintiff may have a writ of second deliverance.

But if return be again awarded, the distress shall remain irrepleviable.

6. *And whereas* frequent abuses have been committed in the execution of writs of replevin by sheriffs making deliverance,

1795.

If the sheriff, on a claim of property, deliver the goods, before the claim be tried, he shall forfeit \$200, and be answerable for the trespass.

notwithstanding due notice and claim of property have been interposed by the defendant or possessor; for the prevention whereof, *Be it enacted by the authority aforesaid*, That if, on a writ of replevin, the defendant in replevin, or possessor, shall claim property in the thing, whereof deliverance is sought, and the sheriff, either by himself, his under-sheriff, or bailiff, having due notice, shall nevertheless proceed to make deliverance, and dispossess such defendant or possessor thereof before the claim of property shall be inquired into, or tried according to law, such sheriff, for every such offence, shall, besides being answerable to the defendant or possessor for the trespass, forfeit two hundred dollars, to be recovered, with costs of suit, by any person, who shall sue for the same, by action of debt, in any court of record having cognizance thereof; the one moiety of the said sum to be appropriated to the use of the person who shall sue for the same, and the other moiety to the use of the state.

An avowry may be made by the landlord, upon the land holden of him, without naming his tenant.

7. *And be it enacted by the authority aforesaid*, That wheresoever any lands, tenements, or hereditaments are or shall be held by any person or persons, by rents, customs or services; if the person, of whom any such lands, tenements, or hereditaments are or shall be held, shall distrain upon the same lands, tenements, or hereditaments for any such rents, customs, or services, and replevin thereof be sued, the person of whom the same lands, tenements, or hereditaments, are or shall be so holden, may avow, or his or her bailiff or servant make cognizance, or justify for taking the said distress upon the same lands, tenements, or hereditaments, so holden, as in lands, tenements, or hereditaments within his or her fee, alleging, in the said avowry, cognizance and justification, the same lands, tenements, or hereditaments to be holden of him or her, without naming any person certain to be tenant of the same, and without making any avowry, cognizance, or justification upon any person certain, and the distrainer, or his or her bailiff or servant, may make avowry, cognizance, or justification, in like manner and form, upon every writ of second deliverance.

In a writ of replevin, or second deliverance, the plaintiffs and defendants shall have the same pleas as at common law.

8. *And be it enacted by the authority aforesaid*, That the plaintiffs and defendants in all writs of replevin, or of second deliverance, and in every of them, shall and may have like pleas and like aid-prayers, in all such avowries, cognizances and justifications, (pleas of disclaimer only excepted) as they might have had before the making of this act, and as though the said avowry, cognizance, or justification had been made after the due order of the common law.

They shall have also, the same joinder as at common law.

9. *And be it enacted by the authority aforesaid*, That all such persons, as by the common law may lawfully join to the plaintiffs or defendants, in the said writs of replevin, or of second deliverance, as well without process as by process, shall and may join unto the said plaintiffs or defendants, as well without process as by process, and have like pleas and like advantages in all things (pleas of disclaimer only excepted) as they might have done and had by the order of the common law, before the making of this act.

10. *And be it enacted by the authority aforesaid,* That whenever any plaintiff in replevin shall be nonsuit, before issue joined, in any suit of replevin, by writ lawfully returned, removed, or depending in any court of record, the defendant, if the distress was made for rent, making a suggestion in nature of an avowry, or cognizance for such rent, to ascertain the court of the cause of distress, the court, upon his or her prayer, instead of awarding a return of the distress, shall award a writ to the sheriff of the county where the distress was taken, to inquire, by the oath or affirmation of twelve good and lawful men of his bailiwick, touching the sum in arrear at the time of such distress taken, or the value of the goods or chattels distrained, and fifteen days notice shall be given to the plaintiff, or his or her attorney, of the sitting of such inquiry, and thereupon the sheriff shall inquire of the truth of the matters contained in such writ, by the oath or affirmation of twelve good and lawful men of his county, and upon the return of such inquisition, the defendant shall have judgment to recover against the plaintiff the arrearages of such rent, in case the goods and chattels distrained shall amount to that value; and in case they shall not amount to that value, then so much as the value of the goods and chattels so distrained, shall amount unto, together with his or her full costs of suit, and shall have execution thereupon for the same by capias ad satisfaciendum, fieri facias, or otherwise, as the law shall require; and in case such plaintiff shall be nonsuit, after cognizance or avowry made and issue joined, or if the verdict shall be given against such plaintiff, then the jurors, empaneled or returned to inquire of such issue, shall, at the prayer of the defendant, inquire concerning the sum of the arrears and the value of the goods and chattels distrained, and thereupon the avowant, or the person who makes cognizance, shall have judgment for such arrearages, or so much thereof as the goods and chattels distrained amount unto, together with his or her full costs, and shall have like execution for the same as aforesaid.

11. *And be it enacted by the authority aforesaid,* That if judgment be given upon demurrer for the avowant, or the person who makes cognizance for any rent, the court, instead of awarding a return of the distress, shall, at the prayer of the defendant, award a writ to inquire of the value of such distress, and upon the return thereof, judgment shall be given for the avowant or person who makes cognizance as aforesaid, for the arrears alleged to be behind in such avowry or cognizance, if the goods and chattels so distrained shall amount to that value; and in case they shall not amount to that value, then for so much as the said goods and chattels, so distrained, amount unto, together with his or her full costs of suit, and shall have like execution for the same as aforesaid.

12. *And to prevent vexatious replevins of distresses taken for rent, Be it enacted by the authority aforesaid,* That every sheriff shall, in every replevin of a distress for rent, take, in his own name, from the plaintiff and two responsible persons as sureties, a bond in double the value of the goods and chattels distrained,

1795.

If plaintiff in replevin be nonsuited before issue joined, the defendant, if the distress be for rent, may make avowry, have a writ of inquiry, and judgment, and execution upon it.

Mode of proceeding where the plaintiff is nonsuited after issue joined.

If judgment be given on demurrer, for the defendant, writ of inquiry may issue.

In a replevin of a distress for rent, the sheriff shall take bond of the plaintiff,

1795.

with sureties, to prosecute and make return, if it be awarded; which bond he shall, if required, assign to the defendant, who may bring an action upon it in his own name.

(such value to be ascertained by the oath or affirmation of one or more witness or witnesses not interested in the distress, which oath or affirmation such sheriff is hereby authorized and required to administer) and conditioned for prosecuting the suit with effect, and without delay, and for duly returning the goods and chattels distrained, in case a return shall be awarded, before any deliverance be made of the distress; and that the sheriff, taking such bond, shall, at the request and costs of the defendant, avowant, or person making cognizance, assign such bond to the defendant, avowant, or person making cognizance. by endorsing the same, and attesting it under his hand and seal, in the presence of two or more witnesses; and if the bond so taken and assigned be forfeited, the defendant, avowant, or person making cognizance, may, in his or her own name. bring an action and recover thereupon; and the court, where such action shall be brought, may, by a rule or rules of the same court, give such relief to the parties upon such bond, as shall be agreeable to justice; and such rule or rules shall have the nature and effect of a defeasance to such bond.

A defendant in replevin may avow generally, without stating a title.

13. *And whereas* great difficulties often arise in making avowries or cognizance upon distresses for rents, quit-rents, and other services, *Be it enacted by the authority aforesaid*, That it shall and may be lawful to and for all defendants in replevin, to avow or make cognizance generally, that the plaintiff in replevin, or other tenant of the lands and tenements, whereon such distress was made, enjoyed the same under a grant or demise at such a certain rent, during the time wherein the rent distrained: for incurred, which rent was then and still remains due, without further setting forth the grant, tenure, demise; or title of such landlord or landlords, lessor or lessors, owner or owners.

No replevin in case of a distress for a tax or fine.

Penalty on a person, who, in such case, shall take out a replevin.

14. *And be it enacted by the authority aforesaid*, That no replevin shall lie in case of distress for any tax, assessment, or fine, to be collected or levied in pursuance of any law of this state; and if any person or persons shall hereafter sue out or prosecute a replevin, in any such case, he, she, or they shall forfeit one hundred and fifty dollars, to be recovered, with costs of suit, by any person, who shall sue for the same, by action of debt, in any court of record having cognizance thereof; the one moiety of the said forfeiture to the person, who shall sue for the same, and the other moiety to the state.

PAT. 184.

AN ACT for the relief of persons imprisoned for debt.

Passed the 18th of March, 1795.

A person in prison for debt may apply to the court of common pleas and exhibit a true account of his estate,

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That any person, who now is in actual confinement for debt in any of the gaols in this state, and hath been so confined from the first day of October last, and is willing to deliver up to his or her creditor or creditors all his or her estate both real and personal,

towards the payment of his or her said creditor or creditors, shall have leave to present a petition to the inferior court of common pleas in and for the county, wherein he or she is so imprisoned, setting forth the cause or causes of his or her imprisonment, containing also a just and true account of all his or her real and personal estate, a full and true inventory of all his or her deeds, bonds, notes, books of account, vouchers and securities whatsoever, together also with a list of all his or her creditors, with the moneys due and owing to each of them, to the best of his or her knowledge.

1795.

a list of his creditors, and the sum due to each of them.

2. *And be it further enacted by the authority aforesaid,* That the court, to whom such application is made, are required to name the time and place, at which they will attend to hear what can be alleged for or against the liberation of such debtor; of which time and place, so appointed by the court, the debtor shall cause notice thereof in writing, at least thirty days previous thereto, to be served on or left at the usual place of residence of each of his or her creditors, if residing within this state, and have the same inserted in one of the newspapers of this state, and in one of the newspapers of the state most contiguous to the place of his or her confinement.

On such application, the court to appoint a hearing, of which notice is to be given to the creditors.

3. *And be it further enacted by the authority aforesaid,* That at such time and place as aforesaid appointed, the debtor, so applying to the court as aforesaid, shall appear before the said court, and exhibit a just and true account of all his or her estate, both real and personal, either in possession, reversion, or remainder, together with a just and true inventory of all his or her deeds, bonds, notes, books of account, vouchers, specialties whatsoever, with the sums due thereon, as near as may be, and a list of all his or her creditors, with the amount of debts to them due and owing; that the court shall proceed to hear, consider and examine into the truth and justice of such application or petition, so as aforesaid made and presented; to consider and examine also the truth and fairness of the account and inventory, so to be exhibited before the said court.

What is requisite to be produced and done at the hearing.

4. *And be it enacted by the authority aforesaid,* That such examination shall be had in open court and on interrogatories, proposed by the court to such debtor, touching and concerning the disposition of his or her estate, the truth and fairness of the account, and inventory, so as aforesaid exhibited, and the debtor shall, on his or her oath or solemn affirmation, a true and direct answer, of and concerning the same, make to all such questions as shall be asked him or her by the court; and if the debtor, to such interrogatories, shall knowingly, falsely swear or affirm, such debtor shall be adjudged guilty and liable to the pains and penalties of wilful and corrupt perjury.

The prisoner to be examined on oath, in open court, respecting the disposition of his estate and the truth of his inventory.

Punishment for false swearing.

5. *And be it further enacted by the authority aforesaid,* That if, after the hearing, consideration and examination of the proofs and allegations of such debtor, the court and the creditor or creditors, that may attend, shall be satisfied that the conduct of the debtor has been fair, upright and just, the court shall proceed

The court to appoint assignees, to whom the debtor shall execute an as-

1795.

assignment of his estate; upon which he shall be discharged.

When a debtor shall be remanded to prison, and a further hearing ordered.

Debtor, when remanded to prison, to file a declaration within thirty days;

forthwith to appoint one or more respectable, judicious and responsible freeholder or freeholders of the county, where such debtor may be imprisoned, as assignee or assignees; to which said assignee or assignees the debtor shall forthwith execute an assignment of all his or her real and personal estate wheresoever or whatsoever, except such apparel for himself, his wife and children, and such tools and implements of his trade or occupation, as the court may judge proper, not exceeding the value of ten pounds in the whole; upon making which assignment, and filing the same in the clerk's office of the said court, the court may, by writing, under their hands and seals, direct the sheriff to discharge said debtor from confinement, on account of any debts by him or her previously contracted.

6. *And be it further enacted by the authority aforesaid, That* if the creditor or creditors, at whose suit such debtor is imprisoned, or any other creditor, shall not be satisfied with the truth and honesty of the declaration and confession of such debtor, nor with the truth and fairness of the account and inventory so as aforesaid to be exhibited, and such creditor or creditors shall offer and undertake to the court to prove by the first day of the next term, that such debtor has concealed and secreted some part of his or her estate, and has not fairly, fully and honestly, delivered up to the use and benefit of his or her creditors the whole of his or her estate, real and personal, it shall and may be lawful for the court to remand such debtor to prison, and direct such debtor and the said creditor or creditors, so dissatisfied as aforesaid, to appear before the court on the first day of the next term; *Provided, That* such creditor or creditors, so dissatisfied, shall and do agree by writing, under his or their hands, to allow and pay any sum that the court may direct, not exceeding four shillings per week, to and for the support of such debtor, to be paid on the second day of each week, for and during the said term; and on failure of payment of which weekly sum, such debtor shall, on application to the court, or any three judges thereof, be forthwith, by order as aforesaid, discharged; *Provided also, That* if such creditor or creditors, so dissatisfied, shall prove that such debtor hath concealed and kept back any part of his or her estate, he or they shall be reimbursed the expense of supporting such debtor out of the estate of such debtor.

7. *And whereas* the trial by jury is justly considered as the mode of trial most congenial with the liberties of a free people, and should in all cases between individuals be used and had as far as is practicable; and in the present case such a mode of trial would be mutually advantageous both to the debtor and to the creditor; to the creditor, by not depriving him of his property without the verdict of a jury, and to the debtor, by not confining his body, or convicting him of a crime without the interposition and approbation of twelve free and lawful men; *Be it therefore enacted by the authority aforesaid, That* after such debtor shall be remanded to prison as aforesaid, he shall, within thirty days, file, in the clerk's office of said court, a declaration, to the following effect, to wit, Hunterdon, (or other county, as the case

is,) to wit: A. (name of the debtor) cometh before the court and saith, that he ought against his creditors to be discharged out of custody for debt, because he saith, that he hath become, according to the force, form and effect of an act of the legislature, entitled "An act for the relief of persons imprisoned for debt," passed the eighteenth day of March, in the year of our Lord, seventeen hundred and ninety-five, and within the true intent and meaning of such act, an insolvent debtor; and that he hath well and truly complied with the said act in all things on his part, for the benefit, and to the use of his creditors, to wit, on the first day of March, in the year of our Lord, seventeen hundred and ninety-five, (or other time as the case may be) at the township of Amwell, in the county of Hunterdon (or other place) whereby good right and full title, by virtue of the said act, hath accrued to him against his creditors to be discharged out of custody for debt, and this he is ready to verify; wherefore he prayeth judgment of discharge out of custody for debt, according to the force, form and effect of the said act. That within twenty days after filing the said declaration, but not afterwards, all the creditors of said debtor, or any one of them, may file in the clerk's office of said court, his, her, or their plea, to the following effect, to wit, B. C. D. (the names of the creditors) come before the court and say, that the said A. is not an insolvent debtor, and that he hath not well and truly complied with the said act, in all things, on his part, for the benefit and to the use of his creditors, in manner and form, as the said A. hath thereof declared against his creditors, and of this they put themselves upon the country: that the debtor may join issue with the creditor or creditors, by filing in the office of the said court the replication of the debtor to the following effect, to wit, and the said A. doth so likewise. That for the trial of the issue, joined as aforesaid between the debtor as plaintiff of the one part, and all the creditors or creditor as defendants or defendant of the other part, in one action, and not in two or more actions; the debtor do cause a venire facias to issue, directed to the sheriff, requiring him to summon twelve respectable freeholders of the county to make a jury between the said parties. The debtor filing, in the office of the said court, lawful notice of trial to the creditor or creditors, named in his, her, or their plea, do cause the issue joined as aforesaid to be tried in turn before the court by the said jury to be summoned by the sheriff of the county as aforesaid: that the trial on the said issue shall be had only between the debtor named in the declaration, and the creditor or creditors named in the plea, and not between the debtor and other creditors, that all proceedings had under this act, on the part of the debtor, may, on trial of the issue, if joined as aforesaid, be before the court and jury deemed competent, but not conclusive evidence on his part; and that the debtor do, on the trial of the issue before the court and jury, further than by the proceedings aforesaid, prove in evidence, and maintain the truth and legality of his case, according to the issue on his part joined; and that if the jury do find a verdict for the debtor, the court do render judgment, that the debtor be discharged out of custody according to the force, form and effect

1795.

its form.

Plea to be filed within twenty days after the filing of the declaration.

Form of the plea.

Venire facias to issue, and due notice of trial to be filed.

If the jury find for the debtor, he shall be discharged; if against him, he shall be continued in custody.

1795.

If plea be not filed in due time, the debtor to be discharged.

Costs to be awarded according to the event of the suit.

Debtor's estate vested in the assignees.

Powers and duties of the assignees designated and defined.

of the said act: that if the jury do find a verdict for the creditor or creditors, the court do render judgment, that the debtor be continued in custody, until he be thence delivered by due course of law: that if within twenty days after filing the declaration of the debtor, no creditor do file a plea to the same, the clerk of the court, on the application of the debtor, is hereby required to enter in the minutes of the said court a certificate, that no plea has been filed by any creditor to the declaration of the debtor, and that the debtor may produce a copy of the said certificate, under the hand of the clerk, and seal of the court, to any two judges of the court, who, being together, are hereby empowered to make their joint order in writing, under their hands and seals, that the debtor, for default of a plea filed to his declaration by any creditor, be discharged out of custody, according to the force, form and effect of the said act; which order is to be delivered to the clerk of the court, and by him to be entered on the minutes of said court, and to be filed. And that if on the trial before the court and jury, and the verdict and judgment thereupon, the debtor shall be convicted, he shall pay such costs as may be taxed by the court; and if the creditor or creditors shall not maintain the issue on his or their part, the said creditor or creditors shall in such case pay the costs by the court to be taxed.

8. *And be it further enacted by the authority aforesaid, That the assignee or assignees, so to be appointed as aforesaid, are hereby declared to be invested with as ample title to all lands, goods, debts and effects whatsoever, so assigned, as the assignor himself or herself had; and no release of the assignor, his or her executor, administrator, or any trustee for him or her, subsequent to such assignment, shall bar the assignee or assignees from recovering any debts, or other property mentioned in the assignment to them made; and the assignee or assignees, after paying the fees of the gaol-keeper, shall divide the proceeds of the property so assigned to them among all the creditors, in proportion to their respective debts, reserving to themselves such compensation for their services as is herein after allowed them.*

9. *And be it further enacted, That such assignee or assignees shall have full power and authority to dispose of all estates, which shall be assigned to them, or which ought, by virtue of this act, to be assigned to them, to execute good and sufficient deeds for the same, to redeem all mortgages and conditional contracts, and to recover in their own names every thing belonging or appertaining to the estate, real and personal, of such debtor; and shall have full power and authority to refer to arbitration, settle, compound and agree with any person or persons indebted to such insolvent, in such manner as shall from time to time be agreed upon between them; and shall proceed to convert the estate of every such debtor into money, as soon as conveniently may be, and upon such credit as the major part in value of the creditors shall direct; and shall, within the space of eighteen months, proceed to make a division of all the money, which shall come to their hands of all the estate aforesaid, first giving three months notice of the time and place of making such dividend, by adver-*

using the same in one or more of the public newspapers of this state nearest the place of the said debtor's confinement, and fixing advertisements in five of the most public places of the county; and, if the whole be not then distributed, shall, within the space of one year thereafter, make a second division of what moneys may come to their hands after the first division; and so from year to year, till a final settlement thereof, and a just and equal distribution of the whole estate, be made: and in case any creditor or creditors of any such debtor shall reside in any other of the United States, having no attorney empowered to appear for and represent him or her in this state, then such assignees shall, at least six months before the making of such dividend, give public notice of the time and place of making the same, by an advertisement inserted in one of the newspapers, published at the seat of the federal government, and continued in the same one month.

1785.

10. *And be it further enacted*, That the assignee or assignees shall, at least one month before a division be made, appoint the day, by public notice as herein before is directed, for a general meeting of all such creditors, as shall choose to attend, to examine and ascertain the debts due to each creditor; and, in case of any controversy relating to such debts, it shall be determined in the following manner; the assignee or assignees shall nominate two arbitrators, not being creditors of the insolvent, and the creditor, whose debt is in controversy, shall nominate two others, and their names shall be separately written on four pieces of paper, as nearly of the same size as possible, which shall be rolled up in the same manner and put into a covered box, and from thence one of the assignees shall draw out three of the said pieces of paper, and the persons, whose names are so drawn, shall finally settle such controversy; and if any arbitrator so appointed shall refuse or be incapable of acting in a reasonable time, a new choice shall be made in the same manner; and in case any such creditor shall refuse to nominate arbitrators on his part, the assignees shall nominate them for him.

Controversies relating to debts, how to be determined

11. *And be it further enacted*, That the assignee or assignees shall, immediately after the assignment, take an oath or affirmation, as the case may require, to be administered by the judges aforesaid, to the following effect, viz. I, A. B. do solemnly swear, that I will well and faithfully manage the insolvent's estate, and keep and render a true account of all that shall come to my hands of the same; so help me God. Which oath or affirmation shall be in writing, subscribed by the assignee or assignees, and filed with the clerk of the said court; and the said assignees shall keep regular books of account, to which every creditor shall, at all reasonable times, have recourse; and, for the care and trouble incumbent on the assignees, they shall be allowed, out of the insolvent's estate, such sum as the court may deem adequate to their services and expenses.

Form of the oath to be taken by the assignees.

Their allowance.

12. *And be it further enacted*, That for the more full discovery of the estate and effects of such debtor, the court or judges as aforesaid, at the request of the assignee or assignees, shall have

The court or judges authorized to examine the wife

1795.

of the debtor,
and other per-
sons, respect-
ing his estate.

full power, and are hereby required, to summon and examine on oath or affirmation as aforesaid, the wife of such debtor, and every other person whatsoever, known or supposed to detain any part of the said debtor's estate or effects, or to be indebted to it; and in case any person on such summons shall refuse to attend, having no reasonable excuse, or shall refuse to be sworn or affirmed, then it shall and may be lawful for the said court or judges to commit such person so refusing to gaol, till he or she shall submit to be examined concerning what he or she knows relating to such insolvent's estate or effects.

Such persons
to be examined
on interroga-
tories.

13. *And be it further enacted*, That the wife of such debtor, and every person whatsoever, summoned as aforesaid, shall be examined on interrogatories in writing, which interrogatories, with the several answers thereto, shall be signed by the person so examined, and filed by the clerk of such court, as shall award the debtor's discharge.

How suits in
equity may be
commenced
by the as-
signees.

Creditors, not
proving their
debts in due
time, shall not
be entitled to
a dividend.

14. *And be it further enacted*, That no suit in equity shall be commenced by any assignee or assignees without the consent of the major part of the creditors in value, at a meeting to be held for that purpose; and if any creditor shall neglect or refuse to give notice of and prove his or her debt within eighteen months after the assignments, and a division of the whole estate be made, such creditor shall not be entitled to a dividend; then all the money arising from the sale of the said debtor's estate shall be divided among the other creditors; but in case the whole of such debtor's estate shall not be divided and settled by the time herein appointed for the first division, and such creditor shall prove his debt before the time appointed for a second division, then such creditor shall, before a second division be made among the other creditors, have his first dividend; but no creditor shall be admitted to prove his debt, in order to entitle himself to a share in the insolvent's estate, after the second division, but shall by this act be debarred from any share thereof.

What proceed-
ings shall be
had, where a
debtor has
been bail.

15. *And be it further enacted*, That every such debtor, who shall, before the delivery of the petition before directed, have become bail in any case, on account of which he hath reason to think judgment may be had against him, and shall make oath or affirmation as aforesaid, that at the time he so became bail, he esteemed himself vested with an estate sufficient to answer any demand that could, with any probability, be made upon him as bail, may add to the account of the creditors, and the moneys owing by him, before directed to be given an account of, the manner of his becoming bail, and annex such a sum as he imagines he will be able to pay on that account, and then the assignee or assignees shall reserve in his or their hands, for the space of eighteen months, such a dividend, as a creditor for a like sum would have a right to receive; and after judgment obtained against any such debtor, the person obtaining the same shall be considered in every respect as another creditor, whose debt was due before the delivery of the petition; but if in the space of eighteen months after the petition is delivered, no judgment shall be obtained against the insolvent, the moneys so re-

1795.

served shall be divided among the other creditors in the same manner, as if the sum so annexed to the account of his creditors was paid: if judgment should be obtained against such debtor as bail for any sum within eighteen months after the petition is delivered, and after the division of his or her effects among his or her creditors, and the said debtor shall have omitted either wholly or in part to annex the said sum to the account delivered, the person obtaining such judgment shall recover against the said debtor, either for the whole or the part omitted, as the case may be, so much as the other creditors of the said debtor ought to have received for the like just debt, and no more.

16. *And be it further enacted*, That all other persons who have given credit to such insolvent debtor, on valuable consideration for any sum of money, or other matter or thing, which is or may not be due or payable at or before the time of the delivery of the petition, shall and may be admitted and considered as creditors, whose debts are then due, and shall receive a dividend in the same proportion as the other creditors, deducting thereout only a rebate of lawful interest for what shall be received on such debt, to be computed from the actual payment thereof to the time it would have become due.

Creditors, when debts are not due, may avail themselves of this act, and receive a dividend.

17. *And be it further enacted*, That every such insolvent debtor, having given up all his or her estate, and conformed in all things to the directions of this act, shall for ever thereafter be discharged from all debts due at the time of the assignment, or contracted for, before that time, though payable afterwards, so far as regards the imprisonment of his or her person.

Debtors, who are admitted to the benefit of this act, shall be discharged from their debts, so far as regards imprisonment.

18. *And be it further enacted*, That in case any such debtor shall, after the assignment of his or her estate, receive any debt or debts due to him or her before, or shall secrete any part of his or her estate, or any book or writings relating thereto, with an intent to defraud his or her creditors, and being thereof convicted on indictment, shall be adjudged guilty of wilful and corrupt perjury, and suffer accordingly, and shall be totally precluded from all benefit and advantage whatever, which he or she might otherwise be entitled to.

Punishment of debtors, who shall secrete their estate.

19. Repealed by act, January 13th, 1819.

See act, 14th February, 1818.

See supplement, 3d March 1820: also supplement, 10th June, 1820.

AN ACT concerning wills.

PAT. 189.

Passed the 16th of November, 1795.

I. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all estates, *pur auter vie*, shall be devisable by will in writing, signed and published by the party so devising the same, in the presence of three subscribing witnesses, and proved and recorded in the manner prescribed in and by the act, entitled "An

Estates for the life of another, devisable.

1795.

But if not devised, shall be assets, and distributed as personal estate.

Devises of lands, how revocable.

What persons incapable of making wills of lands.

Devises to persons who attest the execution of a will, void; and such persons admitted as witnesses to prove it.

A creditor, when lands are charged

act for confirming of conveyances of lands made and to be made by wills and powers of attorney, and declaring what exemplifications of records and other things shall be holden and received for good evidence of estates of inheritance, and for transferring of uses into possession," passed the seventeenth day of March, in the year of our Lord, one thousand seven hundred and sixteen-fourteen. And if no such devise thereof be made, the same, or so much thereof as shall not be so devised, shall go to the executors or administrators of the party who had the estate thereof by virtue of the grant, and shall be assets in their hands, and be applied and distributed in the same manner as the personal estate of the testator or intestate.

2. *And be it enacted by the authority aforesaid,* That no devise or bequest in writing, of any lands, tenements, hereditaments, or other estates whatsoever in this state, or of any estate pur autre vie, or any clause thereof, shall be revocable, otherwise than by some other will or codicil in writing, or other writing declaring the same, or by burning, cancelling, tearing, or obliterating the same, by the testator himself, or in his presence, and by his direction and consent; but all devises and bequests of any lands, tenements, hereditaments, or other estates whatsoever in this state, or of any estate pur autre vie, shall remain and continue in force until the same be burnt, cancelled, torn, or obliterated by the testator, or by his directions, in manner aforesaid, or unless the same be revoked or altered by some other will or codicil in writing, or other writing of the deviser, signed in the presence of three or more subscribing witnesses, declaring such revocation or alteration.

3. *And be it enacted by the authority aforesaid,* That wills or testaments, made or to be made, of any lands, tenements, or hereditaments, or of any estate pur autre vie, by any woman covert, or person within the age of twenty-one years, or any idiot, lunatic, or person of nonsane mind and memory, shall not be held or taken to be good or effectual in law.

4. *And be it enacted by the authority aforesaid,* That if any person hath attested the execution of any will or codicil, after the first day of March, in the year of our Lord, one thousand seven hundred and fifty-three, or shall attest the execution of any will or codicil, hereafter to be made, to whom any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any real or personal estate, other than and except charges on lands, tenements, or hereditaments, for the payment of any debt or debts, hath been or shall be thereby given or made, such devise, legacy, estate, interest, gift, or appointment, shall, so far only as concerns such person attesting the execution of such will or codicil, or any person claiming under him or her, be utterly null and void, and such person shall be admitted as a witness to the execution of such will or codicil, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will or codicil.

5. *And be it enacted by the authority aforesaid,* That in case, by any will or codicil, made or to be made, any lands, tenements,

or hereditaments, are or shall be charged with any debt or debts, and any creditor, whose debt is so charged, hath attested, or shall attest the execution of such will or codicil, every such creditor, notwithstanding such charge, shall be admitted as a witness to the execution of such will or codicil.

1795.

with debts,
shall be a wit-
ness to a will.

6. *And be it enacted by the authority aforesaid,* That if any person hath attested the execution of any will or codicil, made on or before the said first day of March, in the year of our Lord, one thousand seven hundred and fifty-three, to whom any legacy or bequest is thereby given, whether charged upon lands, tenements, or hereditaments, or not, and such person, before he shall give his or her testimony concerning the execution of any such will or codicil, shall have been paid, or have accepted, or released, or shall have refused to accept such legacy or bequest, upon tender made thereof, such person shall be admitted as a witness to the execution of such will or codicil, notwithstanding such legacy or bequest; and in case of such tender and refusal as aforesaid, such person shall in no wise be entitled to such legacy or bequest, but shall be for ever afterwards barred therefrom; and in case of such acceptance as aforesaid, such person shall retain, to his or her own use, the legacy or bequest, which shall have been so paid, satisfied, or accepted, notwithstanding such will or codicil shall afterwards be adjudged or determined to be void for want of due execution, or for any other cause or defect whatsoever. *And further,* That in case any such legatee as aforesaid, who hath attested the execution of any will or codicil, made on or before the said first day of March, in the year of our Lord, one thousand seven hundred and fifty-three, shall have died in the testator's life-time, or before he or she shall have received, or released, or refused, on tender, his legacy, such legatee shall be deemed a legal witness to the execution of such will or codicil, notwithstanding such legacy or bequest. *Provided always,* That the credit of every such witness so attesting the execution of any will or codicil, in any of the cases in this act before mentioned, and all circumstances relating thereto, shall be subject to the consideration and determination of the court and jury, or of the court of equity, before whom any such witness shall be examined, or his testimony or attestation made use of, in like manner, to all intents and purposes, as the credit of witnesses, in all other cases, ought to be considered of and determined.

A legatee, be-
ing a witness
to a will on or
before the 1st
of March 1753,
shall, if he has
been paid, or
has released,
or refused his
legacy, be an
admissible wit-
ness.

But the credit
of such legatee,
as a wit-
ness, shall be
submitted to
the court and
jury.

7. *And be it enacted by the authority aforesaid,* That no person, to whom any beneficial estate, interest, gift, or appointment, hath been or shall be given or made, which is hereby enacted to be null and void, or who shall have refused to receive any such legacy or bequest, on tender made as aforesaid, and who shall have been examined as a witness concerning the execution of such will or codicil, shall, after he or she shall have been so examined, demand or take possession of, or receive any profit or benefit of or from any such estate, interest, gift, or appointment, so given or made to him or her, in or by any such will or codicil, or demand, receive, or accept, from any person or persons whatsoever, any such legacy or bequest, or any satisfaction or

If a legatee
shall refuse his
legacy, and be
examined as a
witness to the
will, he shall
not afterwards
receive it.

1795.

The sections of this act which relate to the competency or credibility of witnesses to wills, made on or before the 1st March, 1763, shall not affect an heir at law, or devisee in a prior will, who was in possession on that day, nor a will which has been contested by such heir or devisee, and determined in his favor.

If lands be devised, or, by will, be directed to be sold by the executors, and some of them refuse to act, the others, who accept, may sell and convey the same.
See act, February 11th, 1815.

compensation for the same, in any manner, or under any color or pretence whatsoever.

8. *And be it enacted by the authority aforesaid,* That the clauses in this act concerning the competency or credibility of the witnesses to wills or codicils, made on or before the said first day of March, in the year of our Lord, one thousand seven hundred and fifty-three, shall not extend, or be construed to extend, to the case of any heir at law, or of any devisee in a prior will or codicil of the same testator, executed and attested according to the law of this state, or any person claiming under either of them respectively, who was in quiet possession on the said first day of March, in the year of our Lord, one thousand seven hundred and fifty-three, as to such lands, tenements or hereditaments, whereof he was then in quiet possession as aforesaid; nor to any will or codicil, the validity or due execution whereof hath been contested in any suit in law or equity, commenced by the heir of such devisor, or the devisee in any such prior will or codicil, for recovering the lands, tenements or hereditaments mentioned to be devised in any will or codicil so contested, or any part thereof, or for obtaining any other judgment or decree relative thereto, and which has been already determined in favor of such heir at law, or devisee in such prior will or codicil, or any person claiming under them respectively, which is consistent with, or may be warranted by or under any will or codicil, attested according to the law of this state; or where the estate descended, or might have descended to such heir at law, till a future or executory devise, by virtue of any will or codicil attested according to the law of this state, should or might take effect, shall be deemed to be a possession within the intent of this clause of this act.

9. *And be it enacted by the authority aforesaid,* That where any lands, tenements or hereditaments have been, or shall be given or devised by any last will or testament, executed in due form of law, to the executors therein named, or any of them, to be sold, or have been or shall be thereby ordered or directed to be sold by the executors therein named, or any of them, and after the death of such testator, part of such executors, named in such last will and testament, refuse or neglect to take upon him, her, or them the execution, or administration, and charge of the same last will and testament, wherein they are so named to be executors, and the residue of the executors do accept and take upon him, her, or them the execution, administration, and charge of the same last will and testament; then all bargains and sale of any such lands, tenements or hereditaments, so willed to be sold by the executors of any such testator, as well heretofore made as hereafter to be made, by him, her, or them only of the said executors, that so do or shall accept, or that heretofore have accepted and taken upon him, her, or them any such charge of administration of any such will and testament, shall be as good and effectual in the law, as if all the residue of the same executors, named in the said will and testament, so refusing or neglecting to take the administration of the same will and testament, he

joined with him, her, or them in the making of the bargain and sale of such lands, tenements or hereditaments, so willed to be sold by the executors of any such testator, who hath heretofore made or declared, or who hereafter shall make or declare any such will and testament, of any such lands, tenements, or hereditaments, after his decease, to be sold by his executors.*

1795.

10. *And be it enacted by the authority aforesaid,* That when any person hath, or shall have, any child or children, under the age of twenty-one years, and not married at the time of his death, it shall and may be lawful to and for the father of such child or children, whether born at the time of the decease of the father, or at that time in ventre sa mere, or whether such father be within the age of twenty-one years, or of full age, by his deed executed in his life-time, or by his last will and testament in writing, signed and published by such father in the presence of three subscribing witnesses, and proved and recorded in the manner prescribed by the laws of this state, to dispose of the custody and tuition of such child or children, for and during such time, as he, she, or they shall respectively remain under the age of twenty-one years, or any less time, to any person or persons, in possession or remainder; and such disposition of the custody of such child or children, made, or hereafter to be made, shall be good and effectual against all and every person or persons, claiming the custody or tuition of such child or children, as guardian in socage, or otherwise; and such person or persons, to whom the custody of such child or children hath been, or shall be so disposed or devised as aforesaid, shall and may maintain an action of ravishment of ward, or trespass, against any person or persons, who shall wrongfully take away or detain such child or children, for the recovery of such child or children; and shall and may recover damages for the same in the said action, for the use and benefit of such child or children.

A father may, by deed or will, dispose of the custody and tuition of his child, if a minor, until he arrives at age.

11. *And be it further enacted by the authority aforesaid,* That such person or persons, to whom the custody of such child or children hath been, or shall be so disposed or devised, shall and may take into his, her, or their custody, for the use of such child or children, the profits of all lands, tenements, and hereditaments of such child or children; and also the custody, tuition, and management of the goods, chattels, and personal estate of such child or children, till his, or her, or their respective age of twenty-one years, or any less time, according to such disposition aforesaid; and may bring such action or actions in relation thereto, as by law a guardian in common socage might do.

A testamentary guardian to take the profits of the estate, and custody of the child, and bring actions as a guardian in socage.

12. *And be it enacted by the authority aforesaid,* That it shall and may be lawful to and for all and every person and persons, by his, her, or their testament or last will in writing, to give, bequeath, or dispose of all his, her, or their goods, chattels, and personal estate, in the same manner as he, she, or they lawfully might do before the passing of this act.

Personal estates may be bequeathed as before this act.

13. *And be it enacted by the authority aforesaid,* That it shall

* See act relative to executors, 11th February, 1815.

1795.

Widows may bequeath their crops.

What nuncupative will shall be good, and how to be proved.

Proof of a nuncupative will, within what time to be received.

After what time, and on what terms letters testamentary of a nuncupative will shall be granted.

How a written will of personal estate may be altered or revoked by a verbal will.

What persons shall be witnesses to prove nuncupative wills.

Soldiers and mariners may dispose of their personal estates as before this act.

and may be lawful for widows to bequeath the crop of their ground, as well of their dowers, as of their other lands and tements.

14. *And be it enacted by the authority aforesaid,* That no nuncupative will heretofore made, or hereafter to be made, shall be good, where the estate thereby bequeathed shall exceed the value of eighty dollars; unless the same be proved by the oaths of three witnesses at the least, who were present at the making thereof, nor unless it be proved, that the testator, at the time of pronouncing the same, did bid the persons present, or some of them, bear witness, that such was his, or her will, or words to that effect; nor unless such nuncupative will was made in the time of the last sickness of the deceased, and in the house of his, or her habitation or dwelling, or where he or she hath been resident for the space of ten days, or more, next before the making of such will; except where such person was surprised or taken sick, being from his or her own home, and died before he or she returned to the place of his or her dwelling.

15. *And be it enacted by the authority aforesaid,* That, after six months passed after the speaking of the pretended testamentary words, no testimony shall be received to prove any nuncupative will, except the said testimony, or the substance thereof, were committed to writing within six days after the making of the said will.

16. *And be it enacted by the authority aforesaid,* That no letters testamentary, or probate of any nuncupative will, shall pass the seal of any court, till fourteen days at least after the decease of the testator shall be fully expired; nor shall any nuncupative will be at any time received to be proved, unless process hath first issued to call in the widow, or next of kindred to the deceased, to the end that they may contest the same, if they please.

17. *And be it enacted by the authority aforesaid,* That no will, or testament in writing, concerning any goods, or chattels, or personal estate, shall be repealed, nor shall any clause, devise, or bequest therein, be revoked, altered, or changed, by any words, or will by word of mouth only, except the same be, in the lifetime of the testator, committed to writing, and, after the writing thereof, read unto the testator, and allowed and approved of by him or her, and proved to be so done by three witnesses at the least.

18. *And be it enacted by the authority aforesaid,* That all such witnesses, as are and ought to be allowed to be good witnesses upon trials at law, by the laws of this state, shall be deemed good witnesses to prove any nuncupative will, or any thing relating thereto.

19. *Provided always, and be it further enacted by the authority aforesaid,* That, notwithstanding this act, any soldier, being in actual military service, or any mariner or seaman, being at sea, may dispose of his moveables, wages, and personal estate, as he might have done before the making of this act.

20. *And be it enacted by the authority aforesaid,* That all las

wills and testaments, which touch and concern the personal estate only of the testator, shall, after the same have been duly proved, be recorded in the like manner as last wills and testaments, which touch and concern the lands, tenements and real estate of the testator, are directed to be recorded by the laws of this state.

1795.

Will affecting personal estates, to be recorded.

See act 11th February 1815, and supplement 24th January 1817.

AN ACT to regulate the secretary's office and the prerogative office in this state, and for the faithful execution of the same,

PAT. 193.

Passed the 23d of November, 1795.

WHEREAS it appears, from a report of a joint committee of the council and general assembly, that the office of secretary of this state and prerogative office of the same, have not heretofore been duly attended to, and that great numbers of letters of administration, wills and other papers, remain unrecorded. And whereas the present deranged state of the said offices is attended with great risk, with respect to the real and other property held by wills within this state, and elsewhere, and may be productive of much litigation, and introduce great confusion in titles to lands, and other property; THEREFORE—

Preamble.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That, from and after the passing of this act, every person, who shall be elected to the said office of secretary and register of the prerogative office aforesaid, before he enters upon the execution of his said offices, or be admitted to take the oath or affirmation herein after appointed to be taken, for the due and faithful discharge of his said offices, shall, before one or more of the justices of the supreme court, enter into bond to the state of New-Jersey, with at least two good and sufficient sureties, being freeholders in the said state, jointly and severally, in the sum of three thousand pounds, to be approved of by the said justice or justices; which bond, with the condition thereof, shall be in the form herein after mentioned; and, when so executed, shall be recorded in the office of the clerk of the supreme court, and, being so recorded, shall be delivered by the said clerk to the treasurer of this state, to be by him kept among the public papers of his office.

Secretary and register to take an oath of office, and to give bond with approved sureties, for the faithful discharge of the said offices.

2. And be it enacted by the authority aforesaid, That when the said secretary and register of the prerogative office hath given bond as aforesaid, he shall take and subscribe the following oath, or affirmation, before any one of the justices of the supreme court:

Form of the official oath.

I, A. B. do solemnly swear (or affirm) that I will well and truly, faithfully and impartially, execute the office of secretary of the state of New-Jersey and register of the prerogative office of the same, agreeably to law, according to the best of my skill and understanding.

1795.

The bond and oath to be lodged with the treasurer.

The said officers to make a report quarterly, to the governor, of certain business done in their offices, and a general statement of all business, to the legislature, annually.

Duties of the said officers, as to recording.

The said officers may be impeached and removed for misbehaviour.

Form of bond to be given.

Which oath or affirmation, so as aforesaid subscribed, shall, by the justice of the supreme court administering the same, be delivered to the treasurer of this state, to be by him kept, together with the bond aforesaid, among the public papers of his office.

3. *And be it further enacted by the authority aforesaid,* That the said secretary and register of the prerogative office shall, at the expiration of every three months, make a report in writing, to the governor of the state, for the time being, of the business done in the said offices, so far as relates to the recording of wills, letters of administration, and guardianship, and of the unfinished business remaining therein; and likewise, lay a general statement of the business in the said offices, in manner aforesaid, before the legislature at their first sitting after the annual election, yearly and every year hereafter.

4. *And be it enacted by the authority aforesaid,* That the said secretary and register of the prerogative office shall be, and he hereby is directed and required, with all convenient speed, legibly and fairly, to record all papers, which shall come to his hands, and which it may appertain to his office to record; and also to file and deposit such papers in said offices, agreeably to law. And he is further directed and required, without being entitled to any fees for so doing, to record all letters of administration, wills, and other papers, which have been deposited in said offices since the second day of July, in the year of our Lord, one thousand seven hundred and seventy-six and now remain in said offices unrecorded, and to file and deposit the same as aforesaid.

5. *And be it further enacted by the authority aforesaid,* That if the said secretary and register of the prerogative office shall be guilty of misbehaviour in either of the said offices, he shall and may be impeached and removed from office, in the manner prescribed in the constitution of this state, for the removal of other officers.

6. *And be it enacted by the authority aforesaid,* That the bond to be entered into as aforesaid, by the secretary and register, and his sureties, with the condition thereof, shall be in the form following; that is to say,

KNOW all men by these presents, that we, A. B., C. D. and E. F. of _____ are held and firmly bound unto the state of New-Jersey, in the sum of three thousand pounds, to be paid unto the state of New-Jersey: to the which payment, well and truly to be made and done, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents: sealed with our seals. Dated the _____ day of _____ in the year of our Lord,

The condition of the above obligation is such, that if the above bounden A. B. shall well and truly execute the office of secretary and register of the prerogative office of New-Jersey, and in all things, touching and concerning the said offices, shall well and truly, faithfully and impartially, execute and perform the same, as well with respect to all persons whatsoever concerned, as to the said state of New-Jersey, and, at the expiration of his said

office, shall deliver all the books, records and papers remaining in the said offices, or appertaining thereto, to his successor in office, then the above obligation to be void, otherwise to remain in full force and virtue.

1796.

7. *And be it further enacted by the authority aforesaid, That the said secretary and register of the prerogative office shall make out, in writing, a fair copy of all the fees he is by law entitled to receive for the duties of his respective offices, and shall set the same up in public view in the said offices, which shall there remain for the information of all concerned.*

The said officers to set up in their offices a table of their fees.

8. *And be it further enacted by the authority aforesaid, That the said secretary and register of the prerogative office shall, after the first day of May next, reside within the city of Trenton.*

Secretary to live at Trenton.

AN ACT to authorize the stowing of boats in the public road at Cape-Island, in the lower precinct of the county of Cape-May.

PAT. 195.

Passed the 23d of February, 1796.

WHEREAS the inhabitants of the county of Cape-May have, by their petition to the legislature, set forth, that the public are put to great inconvenience for want of a landing place, whereon to stow or lay boats; **THEREFORE—**

Preamble.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall and may be lawful for any person or persons whatsoever, to stow their boat or boats in the highway or road, which now is, or which may hereafter be, laid out at Cape-Island, in the lower precinct of the county of Cape-May, they at all times leaving two-thirds of the width of the said road open and clear; and that all boats, stowed as aforesaid, shall not be considered, or removed, as a nuisance; any law or usage to the contrary notwithstanding. *Provided nevertheless*, That this act shall not authorize any person or persons to stow any boat or boats more than twelve roods distant from the high-water mark.

Boats may be stowed in the highway at Cape-Island, within twelve roods of high-water mark.

AN ACT respecting coroners.

PAT. 195.

Passed the 8th of March, 1796.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That there shall be elected, annually, in every county of this state, three coroners, who shall be inhabitants and freeholders of the said county.

Three coroners to be elected in each county.

2. *And be it further enacted*, That every person who shall be elected to the office of coroner, shall, before he enters upon the execution of his office, take the following oath or affirmation, to wit:

Coroners to take an oath of office.

1796.

Form of such
oath.

I, one of the coroners of the county of do solemnly swear, or affirm, that I will well and truly serve the state of New-Jersey, in the office of coroner of the said county; that I will, to the utmost of my power, faithfully and truly execute, or cause to be executed, all writs and precepts to me directed, and which shall come to my hands, and will faithfully and truly return the same, according to the best of my knowledge, skill, and judgment; that I will in no case, knowingly use or exercise the said office illegally, corruptly, or unjustly; that I will neither directly or indirectly, by any means or device, or under any color or pretence whatsoever, accept, receive, take, use, or enjoy, or consent to the accepting, receiving, taking, using, or enjoying, any fee or reward, of or from any person or persons whomsoever, for the summoning, empanneling, or returning of any inquest, jury, or tales, to or in any court for this state, or between party and party, other than such fees or reward as are or shall be allowed, by law, for the same; and that I will not, directly or indirectly, exact or demand any manner of fee or reward from any person or persons, for serving, executing, or returning any writ, precept, process, execution, or inquisition, or for any other service in my said office, other than such fees or reward, as are or shall be allowed for the same, by law; but that I will, in all things touching the duties of the said office, demean myself honestly, fairly, and impartially, according to the best of my knowledge, skill and understanding.

The return of one coroner shall, in certain cases, be sufficient, but such return not to affect the rest.

3. *And be it further enacted*, That any return made and signed by any one of the coroners for the time being, in any of the counties of this state, to any writ, precept, process or execution, *except process for summoning of juries*,* which shall issue out of any court of record of this state, and be directed to the coroners of the said counties respectively, shall be as good and effectual in law, as if such return had been made and signed by all the coroners of the said county; but the act or return of any one or more of the coroners shall not prejudice or affect the rest.

In what cases it is the duty of coroners to take inquests of deaths.

4. *And be it further enacted*, That every coroner shall, upon view of the body, take inquests of deaths in prison, and of all violent, sudden or casual deaths within his county, and the manner of such deaths.

Coroner to make out precept for jurors.

5. *And be it further enacted*, That each coroner, as soon as he shall have notice, or be certified of any death as aforesaid, shall make out a precept, directed to any constable of the county, where the dead body is found, or lying, requiring him to summon a jury of good and lawful men of the same county, to appear before him at the time and place in such precept mentioned and contained; which precept shall be in form following:

Form of the precept.

county, to wit. The state of New-Jersey to any of the constables of the said county.

You are required, immediately upon sight hereof, to summon twenty-four good and lawful men of the said county of to

* Repealed and supplied by act, 28th February, 1820, supplement to practice act.

be and appear before me, A. B. one of the coroners of the county aforesaid, at in the said county, on the day of at the hour of in the noon of the same day, then and there to inquire of, do and execute all such things as, on behalf of the state, shall be lawfully given them in charge, touching the death of C. D. (or a person unknown, as the case is.) And be you then there to certify what you shall have done in the premises; and further to do and execute what, in behalf of the said state, shall be then and there enjoined upon you. Given under my hand and seal, at in the said county, the day of in the year of our Lord

1796.

6. *And be it further enacted*, That the constable to whom such precept shall be directed and delivered, shall forthwith execute the same, and shall repair to the place at the time mentioned therein, and make return of the precept, with his proceedings thereon, to the coroner who issued it.

Precept to be executed and returned by a constable.

7. *And be it further enacted*, That it shall be the duty of the coroner to certify and return every constable, who shall neglect or refuse to execute the services and duties, or any of them, by this act prescribed, and every person, who shall be summoned as a juror, as aforesaid, and shall not appear, to the next court of general gaol delivery, to be held in and for the county; which court, unless a reasonable excuse be offered, shall set such fine upon the constable, or juror, so offending, as they shall think fit and reasonable, not exceeding fifty dollars.

Constable and jurors, how to be punished for neglect of duty.

8. *And be it further enacted*, That the coroner shall swear, or affirm, twelve or more of the jurors, who shall appear, and shall administer to the foreman of the inquest, an oath or affirmation, upon view of the body, in form following:

Oath to be taken by the jurors.

You, as foreman of this inquest, shall diligently inquire, and true presentment make, on behalf of the state of New-Jersey, how, and in what manner, C. D. (or a person unknown, as the case is,) here lying dead, came to his death; and of such other matters relating to the same, as shall be lawfully required of you, according to evidence.

Form of such oath.

And then shall swear, or affirm, by three at a time, in order, the rest of the jurors, in form following:

Such oath, or affirmation, (as the case may be,) as the foreman of this inquest hath taken on his part, you and every of you, shall well and truly observe and keep on your part.

9. *And be it further enacted*, That when the jurors are sworn and affirmed as aforesaid, the coroner shall give them a charge, upon their oath or affirmation, to declare of the death of the person, whether he or she died by murder, manslaughter, misadventure, misfortune, accident or otherwise, and when and where, and by what means, and in what manner; and if by murder, who were principals, and who were accessaries; and if by manslaughter, who were the perpetrators, and with what instrument the stroke or wound was in either case given, and so of all prevailing circumstances, which may come by presumption; and if by misadventure, misfortune, accident or otherwise, whether by

The nature of the charge which the coroner shall give to the jurors.

1799.

the act of God or man, and whether by hurt, fall, stroke, drowning, or in any other way; to inquire what persons were present at the death, from whence the deceased came, and who he or she was, and his or her parents, relatives or neighbors, who were the finders of the body, whether killed in the same place where he or she was found, or if elsewhere, by whom and how he or she was brought from thence, and of all circumstances relating to the said death; and if he or she died in prison, whether by hard usage there or not, and if so, how and by whom; and if he or she put an end to his or her own life, then to inquire of the manner, means or instrument, and of all circumstances concerning it.

Coroner to issue process for witnesses.

10. *And be it further enacted*, That it shall be lawful for every coroner to issue process for witnesses, commanding them to come before him to be examined, and to declare their knowledge concerning the matter in question; and the said coroner shall administer to every witness an oath or affirmation in form following:

Their oath.

You solemnly swear, or affirm, that the evidence, which you shall give to this inquest on behalf of the state, touching the death of C. D. (or a person unknown, as the case is) shall be the truth, the whole truth, and nothing but the truth.

Inquisitions, where to be delivered.

11. *And be it further enacted*, That all coroners shall deliver their inquisitions to the next courts of oyer and terminer and general gaol delivery, in their respective counties; and the said courts shall proceed thereupon against the offenders.

When evidence shall be taken in writing, and witnesses bound over to court.

12. *And be it further enacted*, That every coroner, upon any inquisition before him found, whereby any person or persons shall be indicted of murder or manslaughter, or as accessory or accessaries to the said crime of murder, either before or after the commission thereof, shall put in writing the effect of so much of the evidence given to the jury before him, as shall be material; and every such coroner is hereby authorized and required to bind all such, by recognizance, as do declare any thing material to prove the said murder or manslaughter, or to prove any person or persons to be accessory or accessaries, as aforesaid, to the said murder, to appear at the next court of oyer and terminer, or general gaol delivery, to be holden within the county, where the trial thereof shall be, then and there to give evidence against such offender or offenders, at the time of his, her or their trial, and shall certify, as well the same evidence, as such recognizance, or recognizances in writing as he shall take, together with the inquisition or indictment before him taken and found, to the said court of oyer and terminer, or general gaol delivery, at or before the time of the trial of the party so indicted.

Coroners neglecting their duty, how to be punished.

13. *And be it further enacted*, That if any coroner be remiss, and do not take inquisition as aforesaid, or do not certify as is before directed, or shall offend in any thing contrary to the true intent and meaning of this act, the court of general gaol delivery of the county, where such offence shall be committed, upon due proof thereof by examination before them, shall, for every such offence, set such fine upon the same coroner, as the said court shall think fit and reasonable, not exceeding five hundred dollars.

14. *And be it further enacted*, That inquisitions taken before coroners, but not indented, shall have the same force and validity in law as if they had been indented.

1796.

Justices of the peace may, in certain cases, take inquests. See act 20th of November 1801.

Inquisitions not indented, to be as effectual as if indented.

~~AN ACT to amend an act passed the 15th of March, 1796.~~

AN ACT providing for the restoration of certain records of the inferior court of common pleas in and for the county of Monmouth, which have been lost, embezzled or destroyed. PAT. 198.

Passed the 15th of March, 1796.

~~AN ACT to amend an act passed the 10th of March, 1796.~~

AN ACT to prevent the draws of certain bridges in the county of Bergen being left open. PAT. 199.

Passed the 10th of March, 1796.

WHEREAS the inhabitants of the county of Bergen, have at a very considerable expense, erected and built bridges over the Hackinsack river and English creek, with convenient draws, in order to accommodate and render useful the navigation of said waters; and whereas some evil minded person or persons have frequently raised and left said draws standing open, to the great inconvenience and endangering of the good people of this state; for remedy WHEREOF— Preamble.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if any boatman, or other person or persons, shall keep the draw of either of the said bridges hoisted above fifteen minutes, when the same is not necessary for the passage of some boat or vessel, or shall let the draw of either of said bridges, when hoisted, run down without proper and necessary care taken to lower the same safely, he, she, or they, so offending, shall, for each and every such offence, forfeit and pay the sum of five pounds, to be recovered in any court, where the same may be cognizable, with costs of suit, by any person, who will sue for the same, one half to and for the prosecutor, and the other half to be paid into the hands of the county collector, to and for the use of the county. Penalty for injuring the draw, &c.

~~AN ACT to amend an act passed the 17th of March, 1796.~~

A SUPPLEMENT to an act, entitled "An act to empower certain persons to purchase the claims of the Indians to certain lands in this colony," passed the twelfth day of August, in the year of our Lord, seventeen hundred and fifty-eight. PAT. 200.

Passed the 17th of March, 1796.

1796.

AN ACT concerning sheriffs.

PAT. 201.

Passed the 18th of March, 1796.

Sheriff to be a freeholder for three years next before his election.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That no person shall be sheriff of any county in this state, unless he shall have been an inhabitant and freeholder in such county for at least three years next preceding his election.

Judges of the pleas, when and where to meet and take security from the sheriff.

2. And be it enacted, That the judges of the courts of common pleas, in the several counties of this state, shall meet at the office of the clerk of the said court, in their respective counties, on the first Tuesday, after the close of the annual, or other election of the sheriff in the same county, on the penalty of eight dollars for each defaulter, to be sued for and recovered by the collector of the said county, and applied to the use of the same; at which time and place, the sheriff elect is hereby required and enjoined to attend, with the certificate of his election, and not less than five sufficient sureties, being freeholders and residents in the same county, to be approved of by the judges then met, or the major part of them, and then and there, before the said judges, with such approved sureties, shall enter into bond for the faithful execution of his office, in the sum of twenty thousand dollars; which bond shall be in the form following: to wit,

Form of the bond to be given by the sheriff, and his sureties.

Know all men by these presents, that we, A. B., C. D., E. F., G. H., I. K. and L. M., all of the county of _____ are held and firmly bound to the state of New-Jersey, in the sum of twenty thousand dollars, to be paid to the said state; for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals. Dated this _____ day of _____ in the year of our Lord,

The condition of the above obligation is such, that if the above bounden A. B. shall well and truly execute the office of sheriff of the county of _____ and, in all things touching his said office, shall well and truly, justly and faithfully, perform and execute the same, as well with respect to all persons concerned, as to the state aforesaid, then this obligation to be void, or else to be and remain in full force and virtue.

Signed, sealed and delivered in the presence of, and approved by us,

A. B.

C. D.

E. F. &c.

} Judges of the pleas in and for the county of _____

To the execution of which bond, the said judges, then present, shall be subscribing witnesses.

Oath of office to be taken by the sheriff.

3. And be it enacted, That the said sheriff, after having entered into bond as aforesaid, shall take and subscribe, before the said judges, an oath or affirmation, in the words following: to wit,

I do solemnly swear, (or affirm,) that I will well and truly serve the state of New-Jersey, in the office of sheriff of _____;

1796.

that I will in no case, knowingly, use or exercise the office of sheriff illegally, corruptly or unjustly; that I will neither directly or indirectly, by any means or device, or under any color or pretence whatsoever, accept, receive, take, use or enjoy, or consent to the accepting, receiving, taking, using or enjoying, any fee or reward of or from any person or persons whomsoever, for summoning, empanneling or returning any inquest, jury or tales, other than such fees or reward as are or shall be allowed by law; that I will not, directly or indirectly, exact, demand or receive, any manner of fee or reward from any person or persons, for serving, executing or returning any writ, precept, process or execution, or for performing any other service, act or duty in my said office, other than such fees or reward as are or shall be allowed for the same by law; that I will not neglect, refuse or delay to serve and return any writ, precept or execution, to me directed and delivered, and to make sale of property by me levied upon and seized, by virtue of any writ or execution, for any gift, promise, reward or favor; that I will do no wrong to any person, for any gift, reward or promise, nor for favor or hatred; that I will do right to all persons in all things belonging to my office; that I will, truly, faithfully and impartially, and with all convenient speed, summon, empannel, and return, or cause to be summoned, empanneled and returned, good and lawful men for jurors, able and sufficient, and not suspected or procured, as is or shall be directed by law; that I will, to the utmost of my power, duly, faithfully, and with all convenient speed, execute, or cause to be executed, all writs, process, precepts, and executions to me directed, and which shall come to my hands, and will faithfully and truly return the same according to the best of my skill and understanding; and that I will truly and honestly, without fraud or deceit, do, execute and perform all services, acts and duties of my said office, according to the best of my judgment, skill and power.

4. *And be it enacted*, That the above oath or affirmation, in writing, subscribed as aforesaid, and attested by the said judges, or a major part of them, and the bond so as aforesaid executed by the said sheriff and his sureties, and approved of in the manner before prescribed, shall be filed and securely kept in the office of the clerk of the court of common pleas, in and for the same county.

Affidavit and bond to be filed in the clerk's office. See secs. 3, 4, act 2d March, 1820.

5. *And be it enacted*, That the said judges, after having taken the bond and administered the oath or affirmation of office as aforesaid, shall deliver to the said sheriff, a certificate thereof, under their hands and seals, directed to the governor of the state, for the time being, in the form following :

Certificate to be given by the judges.

This day, personally appeared before us the subscribers, judges of the court of common pleas in and for the county of A. B. and executed a bond to the state of New-Jersey, with sufficient sureties, by us approved, for the faithful execution of the office of sheriff of the said county of _____ and subscribed the oath of office in due form of law. Given under our hands and seals, the _____ day of _____ in the year of our Lord,

Form thereof.

1796.

Which certificate shall be annexed to the certificate of election aforesaid, and by the said judges delivered to the sheriff, to be by him transmitted to the governor, in order to be commissioned; and the said judges, then present, shall, for their services aforesaid, be severally entitled to the sum of one dollar and fifty cents, which the collector of the county is hereby authorized and required to pay out of any public money he may have in his hands.

Coroners to serve process, until sheriff shall have given bond, &c.

6. *And be it enacted*, That until the sheriff elect shall enter into bond and take the oath of office as aforesaid, the coroner or coroners, last elected, shall serve and execute all writs and process directed to the said sheriff.

If a sheriff elect act as sheriff, before he gives bond, &c., he shall be punished, and his acts be void.

7. *And be it enacted*, That if any sheriff elect shall presume to execute the office of sheriff, before he shall have given bond and taken the oath of office, agreeably to the directions of this act, then all such his acts and proceedings, done under color of office, shall be absolutely void, and he shall, for such offence, be liable to be indicted for a misdemeanor, and, on conviction, fined in any sum not exceeding two thousand dollars.

New election to be had, if the sheriff elect shall not give bond or take the oath of office.

8. *And be it enacted*, That if any sheriff elect shall neglect, refuse, or be unable to give bond with sureties as aforesaid, or shall neglect or refuse to take the oath of office, agreeably to the directions of this act, at the time herein limited, the said judges shall certify the same to the clerk of the court of common pleas, who is hereby authorized and required to advertise a new election for sheriff, in the manner prescribed by law.

Governor to order suits upon sheriff's bonds.

9. *And be it enacted*, That it shall and may be lawful for the governor, or executive authority for the time being, upon application made in writing by any person, or his or her legal representative or attorney, who may be aggrieved, or suppose him or herself to be aggrieved by the neglect, default, malepractice or misconduct of any sheriff in his office, to order a prosecution to be commenced upon the bond given or to be given by such sheriff and his sureties, and to be carried into effect at the costs and charges of the applicant.

Such suits to be instituted in the supreme court.

10. *And be it enacted*, That all suits upon bonds given by sheriffs and their sureties, in manner aforesaid, shall be instituted in the supreme court, and not elsewhere; and when judgment shall be obtained upon any such bond, the said court shall direct so much money to be levied on such judgment, as shall be sufficient to satisfy the party aggrieved for his debt or damages, with costs, to be paid to the said party; and if, after judgment obtained upon such bond, any other party aggrieved by the neglect, default, malepractice or misconduct of such sheriff in his office shall apply to the supreme court for relief, the said court shall direct such further sum to be levied thereon, as shall be sufficient to satisfy such party for his debt or damages, with costs, and so on as often as application shall be made by parties aggrieved, provided, that the sureties in any sheriff's bond shall not be charged, by virtue of this act, beyond the sum contained in such bond.

11. *And be it enacted*, That the sheriff of each county in the

shall have the custody, rule, keeping and charge of the gaol or gaols within such county, and of all prisoners in such gaol or gaols; and shall be responsible for the conduct of any keeper, whom he shall appoint for the same.

12. *And be it enacted*, That it shall be the duty of sheriffs and gaolers to receive from constables and other officers, all persons who shall be apprehended by such constables or officers for offences against this state; and if any sheriff or gaoler refuse to receive any such offenders, he shall be adjudged to be guilty of a misdemeanor, and, on conviction, shall be fined at the discretion of the court.

13. *And be it enacted*, That every sheriff, under-sheriff, coroner, gaoler and other officer, shall let out of prison, all persons, who are or shall be arrested by them, or any of them, or be in their or any of their custody, by virtue of any writ, process or warrant, in any personal action, or by reason of any indictment for trespass, upon reasonable sureties of competent persons, having sufficient within the counties, where such persons shall be so let to bail, to appear at such day and place as the said writ, process or warrant, shall require, except such person or persons as are or shall be in custody or prison by condemnation, execution, surety of the peace, or special command of any court of justice; and that no sheriff, nor any of the officers or ministers aforesaid, shall take or make, or cause to be taken or made, any obligation for any cause aforesaid, or by color of his or their office, of any person, or by any person, who shall be in his or their custody or prison, by course of law, but only to themselves respectively, and by the name of their office, and upon condition written, that the said prisoner shall appear at the day and place mentioned and contained in the said writ, process or warrant; and if any sheriff, or other officer, or minister aforesaid, return upon any person, that he hath taken the body, or that such person hath surrendered himself or herself, such sheriff, or other officer or minister, shall be chargeable to have the body of such person at the day of the return of the said writ, process or warrant, in such form as he or they were before the making of this act.

14, 15. Repealed by act, 16th February, 1820.

16. *And be it enacted*, That if any person or persons have been or shall be arrested by any writ, bill or process, issuing out of any court of record, at the suit of any person or persons, and the sheriff or other officer hath taken or shall take bail from such person or persons, against whom such writ, bill or process was or shall be taken out, the sheriff, or other officer, at the request and costs of the plaintiff in such action or suit, or his lawful attorney, shall assign to the plaintiff in such action, the bail-bond, or other security taken from such bail, by endorsing the same, and attesting it under his hand and seal, in the presence of two or more witnesses; and if the said bail-bond, or assignment, or other security taken for bail, be forfeited, the plaintiff in such action, after such assignment made, may bring an action or suit thereupon in his own name; and the court, in which the action

1796.

Sheriffs to have charge of the gaols, and be responsible for the conduct of the keepers thereof.

Sheriffs and gaolers to receive offenders; and on refusal, how to be punished.

Persons taken on process in personal actions, and indictment for trespasses to be let out on bail,

except such as are in custody by execution, &c.

Bail-bonds, how to be taken.

Sheriff answerable for the appearance of his prisoner.

Bail-bond may be assigned to the plaintiff, who may prosecute the same in his own name.

The court to give such relief

1796.

to the parties and the bail as shall be just. See secs. 36, 37, 38, 39, 40, act 14th February 1799.

Returns, how to be made.

The sheriff shall not carry a person arrested to any tavern, &c., without his consent, nor charge him for victuals or drink, unless he voluntarily called for the same, nor demand or take a greater fee than the law allows;

nor exact a gratuity for keeping him out of gaol; nor take or receive for lodging or diet more than by law allowed.

Prisoners to be permitted to have and use such necessaries as they may send for.

is brought, may, by rule or rules of the same court, give such relief to the plaintiff and defendant in the original action, and to the bail upon the said bond, or other security taken from such bail, as is agreeable to justice and reason; and that such rule or rules shall have the nature and effect of a defeasance of such bail-bond, or other security for bail.

17. *And be it enacted*, That sheriffs and other officers, whose duty it is or shall be to make return of any writ or process, shall put their own names to the return of such writ or process, so that the court may know of whom they received such return; and any sheriff or other officer, who shall not sign such return, shall be amerced, and also answer damages to the party.

18. *And be it enacted*, That no sheriff, under-sheriff, coroner, or other officer, or minister, shall convey or carry, or cause to be conveyed or carried, any person or persons by him or them arrested, or being in his or their custody, by virtue or color of any writ, process or warrant, to any tavern, ale-house, or other public victualling or drinking house, without the free and voluntary consent of the person or persons so arrested, or in custody; nor charge any such person or persons with any sum of money for wine, brandy, rum, gin, spirits, ale, cider, beer, victuals, or any other liquor or things whatsoever, except what he, she, or they shall call for, of his, her, or their own free accord; nor shall cause or procure him, her, or them, to call or pay for any such liquor, victuals or things, except what he, she, or they shall particularly and freely ask for; nor shall demand, take or receive, or cause to be demanded, taken or received, directly or indirectly, any other or greater sum or sums of money, than is or shall be by law allowed to be taken or demanded, for such arrest, taking, detaining or waiting, until the person or persons, so arrested or in custody, shall have given an appearance or bail, as the case may require, or agreed with the person or persons, at whose suit or prosecution, he, she or they shall be taken or arrested, or until he, she or they shall be sent to the proper gaol of the county, or place where such arrest or taking shall be; nor shall exact or take any reward, gratuity or money, for keeping the person or persons, so arrested, or in custody, out of gaol or prison; nor shall take or receive any other or greater sum or sums for one or more night's lodging, or day's diet, or other expenses, than what is or shall be allowed by law.

19. *And be it enacted*, That every sheriff, under-sheriff, gaoler, keeper of any prison or gaol, or other person or persons whomsoever, to whose custody or keeping any person or persons, so arrested or taken, shall be committed, by virtue of any writ or process, or on any pretence whatsoever, shall permit and suffer him, her or them, so arrested or taken, at his, her or their will and pleasure, to send for and have any cider, ale, beer, victuals, or other necessary drink or food, from what place, and whom they please, and also to have and use such bedding, linen, and other things, as he, she or they shall think fit, without purchasing or detaining the same, or any part thereof, or enforcing or requiring him, her or them, to pay for the having or using

thereof, or putting any manner of restraint or difficulty upon him, her, or them, in using thereof or relating thereto.

1796.

20. *And be it enacted*, That it shall not be lawful for any sheriff, gaoler, or keeper of any gaol, to confine or keep debtors and criminals together, in the same room or chamber; but they shall be confined and kept separate and apart from each other, in distinct rooms.

Debtors and criminals to be kept separate.

21. *And be it enacted*, That if any sheriff, under-sheriff, coroner, gaoler, or other officer or minister aforesaid, shall offend against the three clauses or sections immediately preceding, or any of them, or any part thereof, every such offender shall, besides being punished, on conviction for a misdemeanor, forfeit and pay double damages to the party aggrieved, to be recovered, with costs, by action of debt, in any court having cognizance thereof.

Penalty for offending against the three preceding sections.

22. *And be it enacted*, That if any sheriff or coroner shall neglect or refuse to execute any writ of execution, to him directed, and which hath or shall come to his hands, or where the execution shall be by fieri facias, shall neglect to file a just and true inventory of the goods and chattels, lands and tenements, so taken in execution, unless such sheriff or coroner return, that he hath levied to the value of the debt or damages, and costs, or shall voluntarily or negligently omit, for the space of two months, rendering to the plaintiff or plaintiffs, his, her, or their representative or attorney, the money which he shall have received from the sale of the estate, real and personal, of the defendant, or otherwise, he shall be amerced in the value of the debt or damages, and costs, to and for the use of the said plaintiff or plaintiffs; provided, that ten day's notice, in writing, shall be given to such sheriff or coroner, by the plaintiff or plaintiffs, his, her or their representative or attorney, before any motion shall be made for such amercement; which said amercement, so as aforesaid ordered by the court, shall have the force and effect of a judgment, whereupon execution, in the name and for the use of such plaintiff or plaintiffs, or his, her or their representative, may, instantly, on motion in open court, and without any further proceedings, be awarded and issued against the goods and chattels, lands and tenements, of such sheriff or coroner, so amerced as aforesaid. *Provided*, That nothing in this act contained, shall prevent the party injured from proceeding, at his election, against such sheriff or coroner, by attachment, according to law.

A sheriff or coroner, not executing a writ of execution, or not filing an inventory of the property, or not rendering money to the plaintiff, to be amerced to the amount of the debt, or damages, and costs.

And such amercement to be a judgment, whereon execution may be awarded.

But this clause not to affect procedure by attachment.

23. *And be it enacted*, That when an amercement, as aforesaid, has been obtained against any sheriff or coroner, it shall be lawful for the court, at the request of the plaintiff or plaintiffs, his, her or their attorney, or legal representative, to appoint one or more elisor or elisors, to whom the execution upon such amercement shall be directed, and who, on accepting such appointment, and receiving such execution, shall have as full power and authority to levy upon, seize, and sell the estate, real and personal, of such sheriff or coroner, and make deed or deeds for the same, and in all things, to execute the said writ of execution, as

Court may award execution upon amercement to elisors.

1796.

effectually as any sheriff might or could do by law, in cases of execution to him directed, and shall be entitled and liable to the like fees and penalties.

Courts of common pleas may award attachments against persons in cases of contempt.

Prisoners to be detained until discharged by due course of law.

What deemed an escape.

Debtors taken by execution to be kept in close and safe custody;

And if permitted to escape, sheriff liable for the debt.

Persons in custody of sheriff on a decree in chancery, and escaping, the sheriff to be answerable.

24. *And whereas* doubts have arisen, whether the courts of common pleas, in and for the respective counties, have authority to proceed against the sheriff or coroner, by attachment for contempt or disobedience, in not executing any writ, process or order of the said court; to obviate which, *Be it enacted by the authority aforesaid*, That the court of common pleas, in and for the respective counties of this state, shall have the like power, in cases of contempt and disobedience as aforesaid, to award attachments, and proceed thereupon against the sheriff or coroner of such county, where the said court is held, as the supreme court of this state now hath or hereafter shall have.

25. *And be it enacted*, That all prisoners, either upon contempt or mesne process, or in execution, who are or shall be committed to any prison, shall be actually detained within such prison, until they shall be from thence discharged by due course of law. And if at any time, the keeper of any prison shall permit or suffer any prisoner, committed to his custody, either upon contempt, or mesne process, or in execution, to go, or be at large out of prison, except by virtue of some writ of habeas corpus, or rule of court, (which rule of court shall be granted only on motion made, or petition read in open court,) every such going or being out of the said prison, shall be adjudged and deemed, and is hereby declared to be an escape.

26. *And be it enacted*, That every person, who, by virtue of any writ of execution against his or her body, for any debt recovered or acknowledged, or damages assessed, awarded, or adjudged in any court of record, hath been, or hereafter shall be taken or arrested by any sheriff or other officer, to whom any such writ hath been or shall be directed, and every person, who hath been, or shall be committed to the custody of any sheriff or other officer, in execution for any such debt or damages, shall be safely kept in prison, in close and secure custody, without bail or mainprise, until he or she shall satisfy and pay such debt or damages; and if any such sheriff, or other officer, shall permit or suffer any such person, so taken, arrested or committed, or hereafter to be taken, arrested or committed, to go out of prison, or be at large, by bail, mainprise, or otherwise, without the assent and agreement of the plaintiff, such sheriff or other officer, shall thereby become answerable to the plaintiff for the debt or damages, for which such person was or shall be taken, arrested or committed; and the plaintiff may recover the same, with costs, by action of debt, against such sheriff or other officer.

27. *And be it enacted*, That if any person is or shall be in custody of any sheriff or other officer, for not performing any decree of the court of chancery, whereby money is ordered or decreed to be paid, and shall escape from the said sheriff or other officer, then, and in every such case, the person or persons, his, her or their executors or administrators, to whom the money was

to be paid by the said order or decree, shall have the same remedy against the said sheriff or other officer, as if such person, so escaping, had been in custody upon an execution at law, and shall recover the money ordered or decreed to be paid to him, her or them, in and by such order or decree, against such sheriff or other officer, with costs, in any action of debt, or upon the case, to be brought against such sheriff or other officer, in any court of record of this state.

1796.

28. *And be it enacted*, That no retaking on fresh pursuit shall be given in evidence on the trial of any issue in any action of escape, against any sheriff, or keeper of any prison, unless the same be specially pleaded; nor shall any special plea be taken, received or allowed, unless oath or affirmation be first made in writing by such sheriff, or keeper of such prison, against whom such action shall be brought, and filed with such plea, that the prisoner, for whose escape such action is brought, did, without his consent, privity, or knowledge, make such escape; and if such affidavit shall at any time afterwards appear to be false, such sheriff or keeper of such prison, shall, on conviction thereof, be adjudged to be guilty of a misdemeanor, and be punished by fine not exceeding fifteen hundred dollars.

Retaking on fresh pursuit not to be given in evidence in actions of escape, nor pleaded without oath.

Such oath, if false, how punished.

29. *And be it enacted*, That when the sheriff, or any of his deputies, find that resistance will be made against any process of execution, the sheriff, laying aside all other business, and taking with him the power of the county, shall forthwith go in his proper person and execute the same; and if he find resistance, he shall certify to the court the names of the persons making such resistance, their aiders, assistants, favorers and procurers, so that they may be proceeded against according to law.

If resistance be made to process of execution, sheriff shall raise the power of his county, and execute the same.

30. *And be it enacted*, That if any person hath been, or shall be condemned in any court of record of this state, and hath been, or shall be, by virtue of such condemnation, committed to prison, there to remain until he or she make satisfaction to the party, to whom he or she is or shall be condemned, and any writ or writs shall be granted, commanding the sheriff or keeper of the prison where such prisoner is held, to have the body of such prisoner, with the cause of his or her imprisonment, in the court of chancery, or supreme court, or before the chancellor, or any judge or justice of the supreme court, and it be returned upon the said writ or writs, that the said prisoner is condemned by judgment given against him or her, then, and in every such case, such prisoner shall be immediately remanded, and remain in prison according to law, until satisfaction be made for the sum adjudged.

If, upon the return of a habeas corpus, it appear, that the prisoner is in execution, he shall be remanded.

31. *And be it enacted*, That every sheriff shall, at the expiration of his office, turn over, in writing, under his hand and seal, all writs unexecuted to the succeeding sheriff, who shall execute and return the same.

Sheriff to turn over writs unexecuted to his successor, who shall execute the same.

32. *And be it enacted*, That no person shall exercise the office of a justice of the peace during the time that he holds and exercises the office of a sheriff; and that by acceptance of the latter office his commission for the former shall be null and void.

No person to act as a justice and sheriff at the same time.

1796.

Certain acts
repealed.

33. *And be it enacted, That the act, entitled "An act more effectually to secure the faithful execution of the office of sheriff,"* passed the twenty-ninth day of November, in the year of our Lord one thousand seven hundred and eighty-eight; and the act, entitled "An act to require sheriffs to give security, and for other purposes therein mentioned," passed the fifth day of October, in the year of our Lord one thousand seven hundred and eighty-one; and the act, entitled "An act to oblige the several sheriffs of this colony of New-Jersey to give security, take the oaths or affirmations therein directed for the discharge of their offices, and to prevent their too long continuance therein," passed the nineteenth day of January, in the year of our Lord, one thousand seven hundred and forty-seven-eight; and the act, entitled "An act for the removal of criminals for their more safe custody, and for other purposes therein mentioned," passed the twelfth day of June, in the year of our Lord one thousand seven hundred and seventy-nine; and the act, entitled "An act to direct the mode of prosecuting bonds given by sheriffs, for the due execution of their office," passed the eighteenth day of March, in the year our Lord one thousand seven hundred and eighty-six, be, and the same are hereby repealed: *Provided nevertheless, That such repeal shall not affect any debt, demand, amercement, penalty, bond, forfeiture, fine, or sum of money already due, amerced, given, forfeited, or arisen, upon or by virtue of the said recited acts, or any of them, or any writ or writs, suit or suits, heretofore issued or instituted under or by virtue of the said acts, or any of them; but that all and every such debt, demand, amercement, penalty, bond, forfeiture, fine, or sum of money, and all and every such writ or writs, suit or suits, shall be proceeded upon and prosecuted to final judgment, execution and effect, in the same manner as if this act had not been made.*

But the repeal
not to affect
antecedent
amercements,
or suits already
instituted.

See a supplemental act of the 10th of March, 1797.

PAT. 206.

AN ACT for the punishment of crimes.

Passed the 18th of March, 1796.

Treason, what
cases shall be
adjudged, how
proved, and
punished.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if any person or persons, owing allegiance to this state, shall levy war against it, or shall adhere to its enemies, or to the enemies of the United States, giving them aid or comfort within this state, or elsewhere, or by giving them advice or intelligence by letters, or writings of any kind, or by messages, words, signs, or tokens, or in any way whatsoever, within this state, or elsewhere, or by procuring for, or furnishing to them, money, or any kind of provisions, arms or warlike stores, within this state, or elsewhere, or by bribery, or for reward or promise thereof, or through favor, partiality or treachery, yielding or surrendering to them any town or fortress, castle, garrison, troops, militia, citizen or citizens of this state, or of the United States, or any ship, boat*

1796.

or vessel of this state, or of the United States, or by giving them aid or comfort in any other way, and shall be thereof convicted, or attainted on confession in open court, or on the testimony of two witnesses to the same overt act of the treason, whereof he, she or they shall stand indicted, such person or persons shall be adjudged guilty of treason, and shall suffer death.

2. *And be it enacted by the authority aforesaid,* That if any person or persons, having knowledge of the commission of any of the treasons aforesaid, shall conceal, and not as soon as may be disclose and make known the same to the governor of this state, or to some one of the justices of the supreme court thereof, or to some one of the justices of the peace in and for any of the counties of this state, such person or persons, on conviction, shall be adjudged guilty of misprision of treason, and shall suffer an imprisonment at hard labor for any term not exceeding seven years, or be fined not exceeding one thousand dollars, or both, at the discretion of the court, before whom such offender or offenders shall be convicted.

Misprision of treason, what, and how punished.

3. *And be it enacted by the authority aforesaid,* That every person, who shall commit murder, or shall aid, abet, counsel, hire, command, cause or procure any person or persons to commit murder, shall, on being thereof convicted or attainted, suffer death; and, in such case, the court may, at their discretion, add to the judgment, that the body of such offender shall be delivered to a surgeon for dissection; and the sheriff, who is to cause such sentence to be executed, shall accordingly deliver the body of such offender, after execution done, to such surgeon as the court shall direct, for the purpose aforesaid; provided, that such surgeon, or some person by him appointed for the purpose, shall attend to receive and take away the dead body at the time of the execution of such offender.

Murder punished with death; and court may order offender's body to be dissected.

4. *And be it further enacted by the authority aforesaid,* That if any person or persons, after such execution had, shall rescue or attempt to rescue the body of such offender out of the custody of the sheriff or his officers, or the surgeon or his agents, during the conveyance of such body to any place for dissection as aforesaid, or shall rescue, or attempt to rescue such body from the house of any surgeon, where the same shall have been deposited in pursuance of this act, every person, so offending, shall be liable to a fine not exceeding one hundred dollars, and an imprisonment at hard labor not exceeding twelve months, or either of them, at the discretion of the court.

Rescue of body ordered for dissection, punishment for.

5. *And be it enacted by the authority aforesaid,* That if any person or persons commit the crime of manslaughter, and be thereof convicted, such person or persons shall be liable to a fine not exceeding one thousand dollars, and an imprisonment at hard labor, not exceeding three years, or either of them, at the discretion of the court.

Manslaughter how punished.

6. *And be it enacted by the authority aforesaid,* That from and after the passing of this act, in all cases wherein heretofore any person or persons would have been deemed or taken to have

Petit treason to be deemed murder only, and punished accordingly.

1796.

committed the crime of petit treason, such person or persons shall be deemed and taken to have committed the crime of murder only, and shall be indicted and prosecuted to final judgment accordingly, and the same punishment and no other shall be inflicted as in case of murder.

Sodomy, how punished.

7. *And be it enacted by the authority aforesaid,* That sodomy, or the infamous crime against nature, committed with mankind or beast, shall be adjudged a high crime and misdemeanor, and be punished by fine and solitary imprisonment at hard labor, for any term not exceeding twenty-one years.

Rape, what, and how punished.

8. *And be it enacted by the authority aforesaid,* That any person, who shall have carnal knowledge of a woman, forcibly and against her will, or who shall aid, abet, counsel, hire, cause or procure any person or persons, to commit the said offence; or who, being of the age of fourteen years, shall unlawfully and carnally know and abuse any woman child, under the age of ten years, with or without her consent, shall, on conviction, be adjudged guilty of a high misdemeanor, and be punished by fine and solitary imprisonment at hard labor, for any term not exceeding fifteen years.

Carnal knowledge of a woman child under ten years, punishment for.

Forcible abduction of a woman, and marriage, or defilement, punishment for.

9. *And be it enacted by the authority aforesaid,* That if any person shall unlawfully take any maid, widow or wife, contrary to her will, and shall marry her himself, or cause, or procure her to be married to another, either with or without her consent, or shall defile, or cause her to be defiled, such person, so offending, his aiders, abettors, counsellors and procurers, and such as wittingly receive such woman, so taken against her will, and knowing the same, shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be fined and sentenced to solitary imprisonment at hard labor, for any term not exceeding twelve years; and every such marriage shall be void; and also, the person, to whom such woman shall be so married, shall not receive, take, hold, possess or enjoy any part of her estate, real or personal, by any gift, grant, bequest or devise, of, from, or under her; but every such gift, grant, bequest or devise, so made to him, or for his use, shall be void and of no effect.

Such marriage void; and the pretended husband not to take or hold any estate from the woman, to whom he is so married.

Taking women under 15 from the possession, and against the will of parents or guardians with intent to deflower, &c. how punished.

10. *And be it enacted by the authority aforesaid,* That if any person shall unlawfully convey or take away any woman child unmarried, whether legitimate or illegitimate, being within the age of fifteen years, out of or from the possession, custody or governance, and against the will of the father, mother or guardian of such woman child, though with her own consent, with an intent to seduce, deflower, or contract matrimony with her, such offender shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine and imprisonment at hard labor for any term not exceeding two years, or either them; and if he deflower such woman child, or, without the consent of her father, mother or guardian, contract matrimony with her, then, and in such case, he shall be deemed guilty of a high misdemeanor, and, on conviction, shall be punished by fine and imprisonment at hard labor for any term not exceeding five years; and further, every such marriage shall be void.

Punishment if deflowered or married, and such marriage void.

11. *And be it enacted by the authority aforesaid,* That if any person, being married, or who hereafter shall marry, shall marry any person, the former husband or wife being alive, then the person so offending shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be punished by fine and imprisonment at hard labor for any term not exceeding ten years, or either of them, at the discretion of the court before whom such conviction shall be had; but neither this act, nor any thing therein contained shall extend to any person, whose husband or wife shall be continually remaining without the United States of America for the space of five years together, or whose husband or wife shall absent him or herself, the one from the other, for the space of five years together in any parts within this state, or the United States, the one of them not knowing the other to be living within that time; nor to any person who is or shall be, at the time of such marriage, divorced by the sentence or decree of any authority, or court, having cognizance thereof; nor to any person where the former marriage hath been, or shall be, by the sentence or decree of any such authority, or court, declared to be void and of no effect; nor to any person for or by reason of any former marriage had or made, or to be had or made, within the age of consent.

1796.

Polygamy, what, and how punished.

To what cases this act does not extend.

12. *And whereas* many lewd and dissolute women, being pregnant with bastard children, but regardless of natural affection, or to avoid shame, or escape punishment, conceal their pregnancy and the birth of such children, whereby many of them perish for want of the usual and necessary aid and assistance, and also conceal the death of such children, so that it cannot be known whether they were murdered or not: *Be it therefore enacted by the authority aforesaid,* That if any woman shall conceal her pregnancy, and shall willingly and of purpose be delivered in secret by herself of any issue of her body, male or female, which shall by law be a bastard, every such woman so offending, shall be adjudged to be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding one hundred dollars, or by imprisonment at hard labor, not exceeding four months, or both. *And be it further enacted,* That if any woman shall endeavor privately, by drowning or secret burying, or any other way, either by herself or the procurement of others, to conceal the death of any such issue of her body, which, if it were born alive, would by law be a bastard, so that it may not come to light, whether it were born alive or not, or whether it was murdered or not, then, and in every such case, the woman so offending, her aiders, abettors, counsellors and procurers, shall be adjudged to be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding two hundred dollars, or by imprisonment at hard labor, not exceeding one year, or both.

Women, pregnant with bastard children, concealing such pregnancy, and being delivered in secret, how punished.

Concealing the death of bastard child, punishment for.

13. *And be it enacted by the authority aforesaid,* That all persons who shall intermarry within the degrees prohibited by law, shall be adjudged to be guilty of incest and a misdemeanor, and on conviction, shall be punished by fine, not exceeding five hundred dollars, or by imprisonment at hard labor, not exceeding

Incest, what and how punished.

1796.

eighteen calendar months, or both, at the discretion of the court.

Adultery, how punished.

14. *And be it enacted by the authority aforesaid,* That every person who shall commit adultery, and be thereof convicted, shall be punished by fine, not exceeding one hundred dollars, or by imprisonment, not exceeding the term of six months.

Fornication, how punished.

15. *And be it enacted by the authority aforesaid,* That every person who shall commit fornication, and be thereof convicted, shall be punished by the fine of fourteen dollars, to be paid to the overseers of the poor of the township where the offence was committed, for the use of the poor of the said township.

Open lewdness, &c. how punished.

16. *And be it enacted by the authority aforesaid,* That every person who shall be guilty of open lewdness, or any notorious act of public indecency, grossly scandalous, and tending to debauch the morals and manners of the people, shall, on conviction, be liable to a fine, not exceeding one hundred dollars, and to an imprisonment at hard labor, not exceeding twelve months, or either of them at the discretion of the court.

No suit to be carried on against any person for witchcraft, &c. or for charging another with such offence.

17. *And be it enacted by the authority aforesaid,* That no prosecution, suit or proceeding, shall be commenced or carried on in any court of this state, against any person for conjuration, witchcraft, sorcery or enchantment, or for charging another with any such offence.

Persons, pretending to exercise witchcraft, or by occult science to discover stolen or lost goods, how punished.

18. *And for the effectual prevention and punishment of any pretences to such arts or powers as are before mentioned, whereby ignorant persons are frequently deluded or defrauded, Be it further enacted,* That if any person shall pretend to exercise or use any kind of conjuration, witchcraft, sorcery or enchantment, or pretend, from his or her skill or knowledge in any occult or crafty science, to discover where, or in what manner any goods or chattels, supposed to have been stolen or lost, may be found, every person so offending, being thereof convicted, shall, for every such offence, be punished by fine, not exceeding fifty dollars, or imprisonment at hard labor, not exceeding three months, or both, at the discretion of the court.

Religious impostors, how punished.

19. *And be it enacted by the authority aforesaid,* That all impostors in religion, such as personate our Saviour Jesus Christ, or suffer their followers to worship or pay them divine honors, or terrify, delude, or abuse the people by false denunciations of judgments, shall, on conviction, be punished for every such offence by a fine, not exceeding one hundred dollars, or an imprisonment at hard labor, not exceeding six months, or both, at the discretion of the court.

Blasphemy, and how punished.

20. *And be it enacted by the authority aforesaid,* That if any person shall wilfully blaspheme the holy name of God, by denying, cursing or contumeliously reproaching his being or providence, or by cursing or contumeliously reproaching Jesus Christ, or the Holy Ghost, or the Christian religion, or the holy word of God, that is, the Canonical Scriptures contained in the books of the Old and New Testament, or by prophanely scoffing at, or exposing them, or any of them to contempt and ridicule, then

every person so offending shall, on conviction, be punished by a fine, not exceeding two hundred dollars, or an imprisonment at hard labor, not exceeding twelve months, or both, at the discretion of the court.

1796.

21. *And be it enacted by the authority aforesaid,* That if any person shall wilfully and corruptly commit perjury, or shall by any means procure or suborn any person to commit corrupt and wilful perjury, on his or her oath or affirmation, in any action, plea, suit, bill, answer, complaint, indictment, controversy, matter, or cause depending, or which may depend in any of the courts of this state, or before any referees or arbitrators, or in any deposition taken, or to be taken pursuant to the laws of this state, every person so offending shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding eight hundred dollars, or by imprisonment at hard labor, not exceeding seven years, or both, at the discretion of the court, and be thereafter rendered incapable of giving testimony in any of the courts of this state, until such time as the judgment so given against the said offenders shall be reversed.

Perjury, and subornation of perjury, how punished.

22. *And be it enacted by the authority aforesaid,* That in every presentment or indictment to be prosecuted against any person for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom the oath or affirmation was taken (averring such court, or person or persons to have competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceedings, either in law or equity, other than as aforesaid; and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed.

In prosecutions for perjury, it shall be sufficient to set forth the substance of the charge.

23. *And be it further enacted by the authority aforesaid,* That in every presentment or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceedings, either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed.

Also, in prosecutions for subornation of perjury.

24. *And be it enacted by the authority aforesaid,* That if any person shall, directly or indirectly, give any sum or sums of money, or any goods, chattels, lands or real estate, or any other bribe, present or reward, or give or make any promise, contract, covenant, obligation or security for the payment, delivery, alienation or transfer of any money, goods, chattels, lands or real estate, or other bribe, present or reward, to obtain, procure or in-

Bribery, what cases shall be adjudged, and how punished.

1796.

fluence the opinion, judgment, decree or behaviour of any judge or judges, justice or justices of this state, in any action, plea, suit, complaint, indictment, controversy, matter or cause depending, or which shall depend before him or them, such person so giving, promising, contracting, covenanting or securing to be given, paid, delivered, aliened or transferred, any sum or sums of money, goods, chattels, lands, real estate, or other present, reward or bribe as aforesaid, and the judge or judges, justice or justices, who shall in anywise receive or accept the same, shall be adjudged guilty of a high misdemeanor, and, on conviction thereof, be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both; but such fine shall not exceed eight hundred dollars, and such imprisonment shall not exceed five years; and also shall for ever be disqualified to hold any office of honor, trust or profit under this state.

Extortion,
what, and how
punished.

25. *And be it enacted by the authority aforesaid,* That no judge, justice, sheriff, coroner, constable, gaoler, or other officer of this state, ministerial or judicial, shall receive or take any fee or reward to execute and do his duty and office, but such as is or shall be allowed by the laws of this state; and if any doth, he shall restore to the party grieved double damages and costs: *And further,* That if any such judge, justice, sheriff, coroner, constable, gaoler, or other officer as aforesaid, shall receive or take, by color of his office, any fee or reward whatsoever not allowed by the laws of this state for doing his office, and be thereof convicted, he shall be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both; the fine not to exceed four hundred dollars, nor the imprisonment the term of two years.

Embracery,
and attempts
to influence a
juror or jury,
how punished.

26. *And be it enacted by the authority aforesaid,* That embracery, and all attempts to corrupt or influence a jury, or any of them, or any way to incline such jury, or any of them, to be more favorable to the one side than to the other, by promises, persuasions, entreaties, threats, letters, money, entertainments, or other sinister means, and all indirect, unfair and fraudulent practices, arts and contrivances to obtain a verdict, and all attempts to instruct a jury or juror beforehand, or at any place or time, or in any manner or way, except only in open court, at the trial of the cause, by the strength of the evidence, the argument of the parties, or their counsel, or the opinion or charge of the court, shall be deemed misdemeanors, and punished by fine or imprisonment or both, or by fine or imprisonment at hard labor, or both; the fine in such case not to exceed three hundred dollars, nor the imprisonment the term of one year: *And further,* If any juror take money, goods, chattels, or other reward of the one party or the other, or be so as aforesaid embraced, then every such juror shall, on conviction, be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both; the fine in such case not to exceed six hundred dollars, nor the imprisonment the term of two years; and also shall be for ever disqualified to serve or act as a jurymen.

A juror, who
shall take an
illegal reward,
how punished.

27. *And be it enacted by the authority aforesaid,* That if any

person wilfully and maliciously shall burn or cause to be burned, or aid, counsel, procure, or consent to the burning of the dwelling-house of another, or any kitchen, shop, barn, stable, or other out-house, that is parcel thereof, or belonging or adjoining thereto, or any other building, by means whereof a dwelling house shall be burnt, then, and in every such case, the person so offending shall be adjudged guilty of arson, and be proceeded against for a high misdemeanor, and, on conviction, shall be punished by fine and solitary imprisonment at hard labor, for any term not exceeding fifteen years.

1796.

Arson, what, and how punished.

28. *And be it enacted by the authority aforesaid,* That if any person wilfully and maliciously shall burn or cause to be burned, or aid, counsel, procure, or consent to the burning of any barn, stable, or other building of another, not parcel of the dwelling-house, or any shop, store-house, ware-house, malt-house, mill, or other building of another, or any ship, boat, or other vessel of another, lying within the body of any county in this state, or any church, meeting-house, court-house, work-house, gaol or other public building, then, and in every such case, the person so offending shall be adjudged guilty of a misdemeanor, and, on conviction, shall be liable to a fine and imprisonment at hard labor, for any term not exceeding ten years, or either of them.

Burning public buildings, mills and out-houses how punished.

29. *And be it enacted by the authority aforesaid,* That if any person wilfully and maliciously shall set fire to, or aid, procure, or consent to the setting fire to any church, meeting-house, court-house, work-house, gaol, or other public building; or any dwelling-house, kitchen, shop, store-house, ware-house, malt-house, mill, barn, stable, or other house or building of another, or any ship, boat, or other vessel of another, lying within the body of any county in this state, with intent to burn the same, then, and in every such case, the person so offending shall be adjudged guilty of a misdemeanor, and, on being thereof convicted, shall be punished by fine and imprisonment at hard labor, for any term not exceeding five years, or either of them.

Dwelling-house, mills, &c. setting fire to, with intention to burn, how punished.

30. *And be it enacted by the authority aforesaid,* That if any person shall, by night, wilfully and maliciously break and enter any church, meeting-house, or dwelling-house, with intent to kill, rob, steal, or commit a rape, every such offender, and his or her procurers, counsellors, aiders and abettors, shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine and solitary imprisonment at hard labor, for any term not exceeding ten years.

Burglary, what, and how punished.

31. *And be it enacted by the authority aforesaid,* That if any person shall steal of the money or personal goods and chattels of another, under the price or value of six dollars, he or she so offending, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both; the fine not to exceed thirty dollars, nor the imprisonment the term of one year.

Larceny, under six dollars, how punished.

32. *And be it enacted by the authority aforesaid,* That if any person shall steal of the money or personal goods and chattels of

1796.

Mode of trial
in cases of lar-
ceny under six
dollars.

See supple-
ment, passed
12th February
1818, and sup-
plement, 31st
May, 1820.

But such offen-
der may elect
to be tried in
the usual man-
ner.

Larceny of or
above six dol-
lars, or from
the person,
how punished.

Robbery, how
punished.

another, under the sum of six dollars, such person being committed to gaol for the same, for want of bail, shall, and may by virtue of a warrant under the hand and seals of any two justices of the county, city or town-corporate, wherein such fact was committed, or wherein such money, goods or chattels were found on the person, or in his custody, to the sheriff or constable of such county, city or town-corporate directed, be brought before the said justices, at such time and place as in the said warrant shall be appointed, and such sheriff or constable shall attend the said justices, with the prisoner, during such reasonable time as the said justices shall direct; that the said justices shall then cause the clerk of the court of quarter-sessions of the county, city or town-corporate, or such other person as the said justices shall see fit to appoint and direct, to prefer to the said justices an accusation in writing, alleging the time, place and nature of the offence of the prisoner so as aforesaid brought before them, which they the said justices are hereby fully empowered and required to hear and determine; to which accusation the said prisoner shall plead, and on refusal to plead, or on trial and conviction in manner aforesaid, shall suffer and incur, by order of the said justices, the punishment, penalty and forfeiture prescribed and directed in the preceding section of this act, at the discretion of the said justices: *Provided always*, That if the person, so accused of committing such offence as aforesaid, shall make it his or her choice and request to the said justices, to be tried in such manner as other persons charged with the commission of the crimes and offences in this act enumerated are tried, he or she shall, for want of bail, be remanded by the said justices to the gaol aforesaid, there for that purpose to be kept and confined.*

33. *And be it enacted by the authority aforesaid*, That if any person shall steal of the money, or personal goods and chattels of another, of or above the price or value of six dollars; or shall steal of the money or personal goods and chattels of another from his or her person, whether privately or without his or her knowledge, or openly and in his presence, to any value whatever above the sum of six dollars; or shall, in any church, meeting-house, or place of worship, or in any dwelling-house, shop, store-house, ware-house, mill, barn, stable, out-house, or other building, steal of the money or personal goods and chattels of another to any value whatever, above the said sum of six dollars, every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding ten years, or both.

34. *And be it enacted by the authority aforesaid*, That if any person shall forcibly take from the person of another, money, or personal goods and chattels, to any value whatever, by violence, or putting him or her in fear, every person so offending, and his or her aiders, procurers and abettors, shall be adjudged guilty of

* By a supplemental act, of the 10th of March, 1827, the fines, imposed by virtue of this section, are to be paid to the overseers or trustees of the poor.

a high misdemeanor, and, on conviction, shall be punished by a fine and solitary imprisonment at hard labor for any term not exceeding fifteen years.

1796.

35. *And be it enacted by the authority aforesaid,* That if any person shall unlawfully and maliciously assault another with any offensive weapon or instrument, or by menaces, or in and by other forcible and violent manner and means, demand of another any money, or personal goods and chattels, with intent to rob him or her; or shall, by day, wilfully and maliciously break and enter any dwelling-house, shop, ware-house, store-house, mill, barn, stable, out-house, or other building whatever, with intent to kill, rob, steal, or commit a rape, mayhem or battery, then, and in every such case, the person so offending, and his or her counsellors, procurers, aiders and abettors, shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine not exceeding five hundred dollars, or solitary imprisonment at hard labor, for any term not exceeding ten years, or both.

Assault with intent to rob, or house-breaking by day with intent to kill, rob, steal, &c. how punished.

36. *And be it enacted by the authority aforesaid,* That if any person shall wilfully and maliciously enter, either by day or by night, without breaking the same, any church, meeting house, or place of worship, or any dwelling-house, shop, ware-house, store-house, mill, barn, stable, out-house, or other building whatsoever, with intent to kill, rob, steal, or to commit a rape, mayhem or battery, then, and in every such case, the person so offending, and his or her counsellors, procurers, aiders and abettors, shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding three hundred dollars, or solitary imprisonment at hard labor, for any term not exceeding five years, or both.

Entering dwelling-house, &c. without breaking, with intent to kill, &c. how punished.

37. *And be it enacted by the authority aforesaid,* That if any apprentice or servant, whether bound or hired, to whom any money, bank-bill or note, or goods or chattels, shall be by his or her master or mistress delivered to be safely kept, shall withdraw himself or herself from his or her said master or mistress, and go away with the said money, bank-bill or note, goods or chattels, or any part thereof, with intent to steal the same and defraud his or her said master or mistress thereof, contrary to the trust and confidence in him or her reposed, by his or her said master or mistress; or being in the service of his or her said master or mistress, without assent or commandment of his or her said master or mistress, shall embezzle the said money, bank-bill or note, goods or chattels, or any part thereof, or otherwise shall convert the same to his or her own use, with like purpose to steal the same, then, and in every such case, the person so offending shall be judged guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding one hundred dollars, or imprisonment at hard labor, for any term not exceeding two years, or both: *Provided,* That this clause or section shall not extend to any apprentice or servant, guilty of any of the premises therein mentioned, within the age of fourteen years.

Apprentices or servants, entrusted by their masters with money or goods, and who shall go away with them, with intent to steal, or who shall embezzle them, how punished.

Not to extend to servants, under 14 years of age.

1796.

Lodger steal-
ing goods from
his lodging,
how punished.

38. *And be it enacted by the authority aforesaid,* That if any lodger shall take away, with intent to steal, embezzle or purloin, any bedding, furniture, goods or chattels, which, by contract or agreement, he or she is to use, or shall be let to him or her to use, in or with his or her lodging, then, and in such case, every person so offending, shall be deemed guilty of a misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding two hundred dollars, or imprisonment at hard labor, not exceeding two years, or both.

Stealing bills,
bonds, notes,
&c. or taking
them by rob-
bery, how
punished.

39. *And be it enacted by the authority aforesaid,* That if any person shall steal, or take by robbery, any bank-bill or note, bill of exchange, order, warrant, draught, check, bond, bill, or promissory note for payment of any money, or any certificate, or other public security of the United States, or of this state, or of any of the United States, for payment of money, or acknowledging the receipt of money or goods, being the property of any other person or persons, or of any corporation, notwithstanding the said particulars or any of them are or may be termed in law, choses in action, it shall be deemed and construed a misdemeanor or of the same nature, in the same degree, and in the same manner as it would have been, if the offender had stolen, or taken by robbery, any other goods of like value, with the money due on such bank-bill or note, bill of exchange, order, warrant, draught, check, bond, bill, or promissory note, or certificate, or other public security, or secured thereby, and remaining unsatisfied; and such offender shall suffer such punishment as he or she should or ought to have done, if he or she had stolen, or taken by robbery, other goods of the like value with the money due on such bank-bill or note, bill of exchange, order, warrant, draught, check, bond, bill, or promissory note, or certificate, or other public security respectively, or secured thereby and remaining unsatisfied.

Stealing deeds
&c. how pun-
ished.

40. *And be it enacted by the authority aforesaid,* That if any person shall steal, or take by robbery, any letters patent, charter, testament, will or deed, whether indented or poll, covenant, assurance, lease, indenture of apprenticeship, articles of agreement, contract, letter of attorney, or other power, or any instrument of writing respecting any property, real or personal, or any release, acquittance, voucher, receipt, receipt-book, waste-book, day-book, journal, ledger or other book of accounts, of or belonging to another, every such offender shall be deemed guilty of a misdemeanor, and, on being convicted thereof, shall be punished by fine, not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding ten years, or both.

Persons steal-
ing or avoid-
ing records,
whereby any
judgment is re-
versed, how
punished.

41. *And be it enacted by the authority aforesaid,* That if any clerk, coroner, sheriff, justice or judge, or any other person, shall steal, embezzle, take away, alter, withdraw, falsify or avoid, any record or parcel of the same, writ, return, panel, process, minutes, documents, book or other proceeding, of or belonging to any of the courts of this state, or of or belonging to the office of the secretary of this state, or the office of the clerk of the supreme court, or of the inferior court of common pleas, or general quarter-sessions of the peace of any city or county in this state, by

means whereof any verdict, judgment, sentence or decree shall be reversed, annulled, made void, or lose its force and effect, then every such offender, his or her procurers, counsellors, aiders and abettors, shall be adjudged guilty of a high misdemeanor, and, on being convicted thereof, shall be punished by fine, not exceeding seven thousand dollars, or imprisonment at hard labor, not exceeding seven years, or both; and in case no verdict, judgment, sentence or decree, shall be reversed, annulled, made void, or lose its force and effect by any such stealing, embezzling, taking away, altering, withdrawing, falsifying, or avoiding of any of the records, proceedings, minutes, books, matters or things aforesaid, then every such offender, his or her procurers, counsellors, aiders and abettors, shall, on conviction, be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding four years, or both. *Provided always*, That this act shall not extend to any amendment or entry made or to be made by any rule, order, judgment or decree of any court.

1796.

And if judgment, &c. be not reversed, how punished.

But not to extend to any entry made by order of court.

42. *And be it enacted by the authority aforesaid*, That if any person shall falsely make, alter, forge or counterfeit, or cause, counsel, hire, command, or procure to be falsely made, altered, forged or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting any record, or other authentic matter of a public nature, charter, letters patent, deed, lease, writing sealed, will, testament, annuity, bond, bill, writing obligatory, bank-bill or note, check, draught, bill of exchange, promissory note for the payment of money, endorsement or assignment of any bill of exchange, or promissory note for the payment of money, or any acceptance of a bill of exchange, or the number or principal sum of any accountable receipt for any note, bill, or other security for the payment of money, or any warrant, order or request for the payment of money, or delivery of goods or chattels of any kind, or any acquittance or receipt, either for money or goods, or any acquittance, release or discharge of any debt, account, action, suit, demand or other thing, real or personal, or any transfer or assurance of money, stock, goods, chattels or other property whatsoever, or any letter of attorney or other power to receive money, or to receive or transfer stock or annuities, or to let, lease, sell, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate, real or personal, with intent to prejudice, injure, demand or defraud any person or persons, body politic or corporate, or shall utter or publish, or cause, counsel, hire, command or procure to be uttered or published, as true, any of the above false, altered, forged or counterfeited matters, as above specified and described, knowing the same to be false, altered, forged or counterfeited, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, then every such offender shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine or solitary imprisonment at hard labor, or both; provided such imprisonment shall not exceed the term of ten years.

Forgery, what and how punished.

1796.

Persons acknowledging fines, recoveries, deeds, bail, judgments, &c. in the names of others, not privy thereto, or personating others as bail, how punished.

43. *And be it enacted by the authority aforesaid, That if any person shall acknowledge, or procure to be acknowledged, any fine or fines, common recovery or recoveries, deed or deeds, recognizance or recognizances, bail or bails, judgment or judgments, in the name or names of any other person or persons, not privy or consenting to the same; and if any person shall, before any person or persons authorized to take bail or bails, represent or personate any other person or persons, whereby the person or persons so represented or personated may be liable to the payment of any sum or sums of money, for debt or damages, to be recovered in the same suit or action wherein the person or persons are represented or personated, as if he, she or they had really acknowledged and entered into the same bail or bails, every such person or persons so offending, shall be adjudged guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding seven thousand dollars, or solitary imprisonment at hard labor, or both; provided such imprisonment shall not exceed the term of seven years; and provided also, that this act shall not extend to the acknowledgment of any judgment or judgments by any attorney or attorneys, duly admitted for any person or persons, against whom any such judgment or judgments shall be had or given.*

Persons using any false token or writing to obtain money or goods, with intent to cheat or defraud, how punished.

44. *And be it enacted by the authority aforesaid, That all persons who knowingly and designedly, by color of any false token, counterfeit letter or writing, or false pretence or pretences, shall obtain from any person money, wares, merchandise, goods or chattels, or other valuable thing, with intent to cheat or defraud any person or persons, body politic or corporate, of the same, then every person so offending shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding three years.*

Persons obstructing the execution of process, how punished.

45. *And be it enacted by the authority aforesaid, That if any person or persons shall knowingly and wilfully obstruct, resist or oppose any sheriff, coroner, constable, or other officer of this state, or other person or persons duly authorized, in serving or attempting to serve or execute any mesne process, writ, warrant, rule or order of any of the courts of this state, or any other legal or judicial writ, warrant or process whatsoever, or shall assault, beat or wound any sheriff, coroner, constable or other officer or person duly authorized, in serving or executing any writ, rule, order, process or warrant aforesaid, or for having served or executed the same, every person so knowingly and wilfully offending in the premises, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding eight hundred dollars, or by imprisonment at hard labor, not exceeding two years, or both.*

Sheriffs, and other officers guilty of voluntary escapes in capital cases, to suffer death.

46. *And be it enacted by the authority aforesaid, That if any sheriff, coroner, gaoler, keeper of a gaol, constable, or other officer or person whatsoever, having any offender, guilty of treason, murder or other crime punishable with death, in his custody for any such crime, shall voluntarily permit or suffer such offender*

to escape and go at large, then every such sheriff, coroner, gaoler, keeper of a gaol, constable, or other officer or person so offending, shall be adjudged guilty of a high misdemeanor, and, on being thereof convicted, shall suffer death. *Provided*, That nothing herein contained shall be construed to prevent any sheriff, coroner, gaoler, keeper of a gaol, constable, or other officer or person, so guilty of such voluntary escape as aforesaid, from being prosecuted or proceeded against for a misdemeanor at common law.

1796.

But not to prevent their being proceeded against for a misdemeanor at common law.

47. *And be it further enacted by the authority aforesaid*, That all voluntary escapes, in cases not punishable with death, and all negligent escapes of whatever kind, in criminal matters, shall be deemed misdemeanors, and punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding three years, or both. *And further*, Any sheriff, coroner, gaoler, keeper of a gaol, constable, or other officer, who shall be guilty of any voluntary escape, in any criminal case whatever, shall for ever be disqualified to hold any office of honor, trust or profit under this state.

Voluntary escapes, in cases not capital, and negligent escapes, how punished.

48. *And be it enacted by the authority aforesaid*, That all rescues of any person or persons, guilty of treason, murder, or other crime punishable with death, shall be deemed high misdemeanors, and every person so offending shall, on conviction, suffer death. *Provided*, That nothing herein contained shall be construed to prevent any such rescuer as aforesaid, from being prosecuted and proceeded against for a misdemeanor at common law.

Rescuer of persons guilty of capital crimes, how punished.

But such rescuer may be proceeded against at common law.

49. *And be it enacted by the authority aforesaid*, That all rescues in criminal cases, not punishable with death, and in all civil cases, shall be deemed misdemeanors, and every such rescuer shall, on conviction, be liable to a fine, not exceeding one thousand dollars, or an imprisonment at hard labor, not exceeding three years, or both.

Rescues in criminal cases, not capital, and in all civil cases, how punished.

50. *And be it enacted by the authority aforesaid*, That from henceforth no person, who, being imprisoned, shall break prison, shall have judgment of life or member for breaking prison only; except the cause, for which such prisoner was taken and imprisoned, did require such judgment if he had been convicted thereupon; and if any person, being imprisoned for a crime not punishable with death, shall break prison and escape, or shall break prison, although no escape be actually made, he or she so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding three years, or both.

Prisoner, breaking prison, not to suffer death, unless confined for a crime punishable with death.

Prisoner confined for a crime not capital, breaking prison, how punished.

51. *And be it enacted by the authority aforesaid*, That if any person shall, by any means whatsoever, be aiding or assisting to any prisoner in gaol, indicted for or convicted of any offence against this state, or sentenced to imprisonment on such conviction, or lawfully committed or detained in such gaol, for any crime against this state, expressed in the warrant of his or her commitment or

Assisting a prisoner in gaol to escape, how punished.

1796.

Conveying to such prisoner any disguise or arms, proper to facilitate his escape, how punished.

Assisting a prisoner to escape from a constable, or other person, how punished.

Compounding of treason, and other crimes, how punished.

Conspiracy, what, and how punished.

detainer, to make or to attempt to make his escape from any gaol, although no escape be actually made, every person so offending as aforesaid, and being thereof convicted, shall be deemed to be guilty of a misdemeanor, for which he or she shall be liable to a fine, not exceeding five hundred dollars, or an imprisonment at hard labor, not exceeding two years, or both; and if any person shall convey, or cause to be conveyed into any gaol or house of correction, any mask, visor, or other disguise, or any instrument, or arms proper to facilitate the escape of such prisoners as aforesaid, and the same shall deliver, or cause to be delivered to any such prisoner in any such gaol or house of correction, or to any other person there, for the use of any such prisoner, without the consent or privity of the keeper of such gaol or house of correction, every such person, although no escape or attempt to escape be actually made, shall be deemed to have delivered such mask, visor, or other disguise, instrument or arms, with intent to aid or assist such prisoner to escape, and being thereof convicted, shall be deemed and adjudged to be guilty of a misdemeanor, for which he or she shall be liable to a fine, not exceeding five hundred dollars, or an imprisonment at hard labor, not exceeding two years, or both. *And further,* If any person shall aid or assist any prisoner to attempt to make his or her escape from the custody of any constable, officer, or other person, who shall have the lawful charge of such prisoner, in order to conduct or carry him or her to gaol, by virtue of a warrant of commitment for any crime against this state, expressed in such warrant, or to the house of correction, by virtue of any order, sentence or judgment of imprisonment on conviction of any crime against this state, then every person so offending, and being thereof convicted, shall be deemed and adjudged to be guilty of a misdemeanor, for which he or she shall be liable to a fine, not exceeding five hundred dollars, or an imprisonment at hard labor, not exceeding two years, or both.

52. *And be it enacted by the authority aforesaid,* That if any person take money, goods, chattels, lands, or other reward, or promise thereof, to compound, or upon agreement to compound any treason, misprision of treason, murder, manslaughter, sodomy, rape, arson, forgery, burglary, house breaking, robbery, larceny, kidnapping, escape, rescue, breach of prison, embracery, bribery, perjury, or subornation of perjury, every person so offending, shall be deemed to be guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding three hundred dollars, or imprisonment at hard labor, not exceeding twelve months, or both.

53. *And be it enacted by the authority aforesaid,* That all such as combine, unite, confederate, conspire, or bind themselves by oath, covenant, agreement, or other alliance, that they shall and will mutually aid, support and help one another falsely and maliciously to indict, or cause or procure to be indicted, any person or persons, shall be deemed to be guilty of conspiracy, and, on conviction, shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding two years, or both.

54. *And be it enacted by the authority aforesaid,* That if any person shall kidnap, or steal, or forcibly take away any man, woman or child, bond or free, and send or carry, or with intent to send or carry such man, woman or child from this state into another state or country; or shall spirit, persuade, or entice any child, within the age of fourteen years, to leave his father, mother or guardian, or other person or persons entrusted with the care of such child, and the same child shall secrete and conceal, then the person so offending in any of the premises, and his or her procurers, shall be adjudged to be guilty of a high misdemeanor, and, on conviction, shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding five years, or both; but neither this act, nor any thing therein contained, shall extend to oppose, obstruct or prevent any master or mistress, who may remove from this state into any other of the United States, from taking with him or her, his or her servants or slaves.

1796.

Kidnapping, and spiriting away children, punishment for.

To what cases this section does not extend.

55. *And be it enacted by the authority aforesaid,* That if any person shall voluntarily, unlawfully, and on purpose, cut off the ear or ears, or cut out or disable the tongue, put out an eye, slit the nose, lip or ear, cut off the nose or lip, or cut off or disable any limb or member of any person, or brand any person, with intention in so doing, to murder or kill, to maim or disfigure such person, in any of the manners before mentioned, then, and in every such case, the person so offending shall, on conviction, be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding seven years, or both.

Cutting out or disabling the tongue, cutting off or slitting the nose, lip, ear, &c., of any person, how punished.

56. *And be it enacted by the authority aforesaid,* That if any person shall, by word, message, letter, or any other way, challenge another to fight a duel, with a rapier, or small sword, back sword, pistol, or other dangerous weapon, or shall accept a challenge, although no duel be fought, or knowingly be the bearer of such challenge, or shall any ways abet, prompt, encourage, persuade, seduce, or cause any person to fight a duel, or to challenge another to fight such duel, every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding two years, or both. *And further,* If any person shall engage in and fight a duel with another, with a rapier, or small sword, back sword, pistol, or other dangerous weapon, although death does not thereby ensue, or shall be a second in any such duel, then, and in such case, every person so offending shall be adjudged to be guilty of a high misdemeanor, and, on conviction, shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding four years, or both.

Challenging to fight a duel, though no duel be fought, how punished.

Duel, punishment for fighting, where death does not ensue.

57. *And be it enacted by the authority aforesaid,* That if any person shall knowingly send or deliver any letter or writing, with or without a name subscribed thereto, or signed with a fictitious name, letter or letters, threatening to accuse any person of a crime of an indictable nature by the laws of this state, with intent to extort from him or her any money, wares, merchandise, goods

Sending letter, or other writing, threatening to accuse of an indictable offence, with intent to extort money,

1796.

or demanding money, or threatening to maim, kill, or to burn houses, &c., how punished.

or chattels, or other valuable thing; or demanding money, goods or chattels, or other valuable thing; or threatening to maim, wound, kill, or murder any person, or to burn his or her house, out-house, barn or other building, or stack or stacks of corn, grain or hay, though no money, goods or chattels, or other valuable thing be demanded by such letter or writing, then every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding three hundred dollars, or imprisonment at hard labor, not exceeding nine months, or both.

Stealing lead or iron, fixed to a house, or grass or grain standing and growing, how punished.

58. *And be it enacted by the authority aforesaid,* That if any person shall steal, or shall rip, cut or break, with intent to steal, any lead or iron bar, iron rail, iron gate, or iron palisado, or any lock fixed to any dwelling-house, out-house, stable, or any other building; or shall pull, cut, gather, or take away with intent to steal, any flax, grass, or indian corn, wheat, rye, barley, oats, or grain of any kind, standing and growing, of another, then every person, offending in any of the premises, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding fifty dollars, or imprisonment at hard labor, not exceeding four months, or both.

Stealing in the night-time, vegetables or fruit standing or growing, how punished.

See supplement, 31st of May, 1820.

59. *And be it enacted by the authority aforesaid,* That if any person shall, in the night-time, dig, pull up, pick or gather, with intent to steal, any turnips, potatoes, cabbages, parsnips, carrots, peas, beans, musk-melons, water-melons, apples, peaches, plumbs, cherries, or other roots, vegetables, or fruit of any kind, standing or growing, of another, every person, so offending, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding twelve dollars, or by imprisonment, not exceeding one month, or both; and that every person accused of offending as aforesaid, may be taken before any two of the justices of the peace of the county, city, or town-corporate, where the offence was committed, who are hereby authorized and required to hear and determine the same, if the person accused shall consent thereto; and if, on trial, such person shall, from the evidence produced, appear to be guilty, the said justices shall sentence him or her accordingly.

Persons maliciously destroying deeds, bonds and other writings, how punished.

60. *And be it enacted by the authority aforesaid,* That if any person shall wilfully, unlawfully and maliciously tear, cut, burn, or in any way whatever destroy any letters patent, charter, deed indented, or poll, lease, indentures of apprenticeship, writing sealed, will, testament, bond, annuity, bill, writing obligatory, release, bank-bill or note, check, draught, bill of exchange, promissory note for the payment of money, endorsement or assignment of any bill of exchange, or promissory note for the payment of money, or any acceptance of any bill of exchange, or the number or principal sum of any accountable receipt for any note, bill, or other security for the payment of money, or any warrant, order, or request for the payment of money, or the delivery of goods or chattels of any kind, any certificate, or other public security of the United States, or of this state, or of any of the United States, for the payment of money, or acknowledging the

receipt of money or goods, or any acquittance or receipt either for money or goods, or any acquittance, release or discharge of any debt, account, action, suit, demand, or other thing, real or personal, or any transfer or assurance of money, stock, goods, chattels, or other property whatsoever, or any letter of attorney, or other power to receive money, or to receive or transfer stock, or annuities, or to let, lease, sell, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate, real or personal, or any day-book, journal, ledger, or book of accounts, or any agreement or contract in writing, whether sealed or not, respecting any estate, real or personal, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding eight hundred dollars, or imprisonment at hard labor, not exceeding ten years, or both.

1796.

61. *And be it enacted by the authority aforesaid,* That if any person shall wilfully, unlawfully and maliciously cut down, break down, level, demolish, or otherwise destroy or damage any bridge, or sea or river bank, or any meadow-bank or mill-dam, or break or destroy the windows or doors of any dwelling-house, or other house or building, or set fire to, or burn or destroy, or procure or cause to be burnt or destroyed, any barrack, cock, crib, rick or stack of hay, corn, wheat, rye, barley, oats, or grain, of any kind, or any fences, piles of wood, boards or other lumber; or shall wilfully, unlawfully and maliciously kill or destroy any horse, mare or gelding, or any bull, ox, steer, bullock, cow, heifer or calf, or any sheep or lamb, every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding one hundred and fifty dollars, or imprisonment at hard labor, not exceeding two years, or both.

Malicious mischief to bridges, houses, horses, cattle, grain, lumber, &c., how punished.

62. *And be it enacted by the authority aforesaid,* That if any person or persons shall receive or buy any goods or chattels, that shall be stolen or taken by robbery, from any other person, knowing the same to have been so stolen or taken by robbery; or shall receive, harbor or conceal any thief or thieves, robber or robbers, knowing him, her or them to be so, he, she or they so offending shall be deemed guilty of a high misdemeanor, and, on conviction, be punished by fine, not exceeding three hundred dollars, or imprisonment at hard labor, not exceeding three years, or both.

Receivers of goods stolen or taken by robbery, and harborers of thieves or robbers, how punished.

63. *And be it enacted by the authority aforesaid,* That if any person or persons, having knowledge of the actual commission of murder, manslaughter, sodomy, rape, arson, burglary, larceny, robbery, or forgery, within the jurisdiction of this state, shall conceal, and not, as soon as may be, disclose and make known the same to some one of the justices of the supreme court, or one of the justices of the peace in and for any of the counties of this state, such person or persons, on conviction thereof, shall be adjudged guilty of a misdemeanor, and shall be fined, not exceeding five hundred dollars, or suffer an imprisonment at hard labor, not exceeding three years, or both.

Concealment of burglary, robbery, &c., how punished.

1796.

Persons killing others attempting to rob, murder, &c., to be acquitted.

Persons killing others by misadventure, or in their defence, &c., to be acquitted.

If persons attempting to commit robbery, burglary, arson, &c., shall kill another, or death shall ensue, or if any officer of justice be killed in the execution of his office, &c., such killing shall be murder.

Persons maintaining the authority of foreign powers over this state, how punished.

Assaults, batteries, and other offences at common law, not provided for by this or some other act, how punished.

See sec. 4, May 31, 1820.

In what case corporal punishment.

64. *And be it enacted by the authority aforesaid, That if any person shall attempt to commit murder, sodomy, rape, robbery, arson, or burglary, and in such attempt shall be slain, the slayer shall be deemed faultless, be liable to no forfeiture, and be totally acquitted and discharged.*

65. *And be it enacted by the authority aforesaid, That if any person kill another by misadventure, or in his or her own defence, or in defence of his or her husband, wife, parent, child, master, mistress, or servant, then the person so killing shall be deemed guiltless, be liable to no forfeiture, and be totally acquitted and discharged.*

66. *And be it enacted by the authority aforesaid, That if any person or persons, in committing or attempting to commit sodomy, rape, arson, robbery or burglary, or any unlawful act against the peace of this state, of which the probable consequence may be bloodshed, shall kill another, or if the death of any one shall ensue from the committing or attempting to commit any such crime or act as aforesaid; or if any person or persons shall kill any judge, justice of the peace, sheriff, coroner, constable, or other commonly known officer of justice, either civil or criminal, of this state, or the marshal, or other commonly known officer of justice, either civil or criminal, of the United States, in the execution of his office or duty, or shall kill any of his assistants, whether specially called to his aid or not, endeavoring to keep and preserve the peace, or apprehend a criminal, knowing the authority of such assistant, or shall kill a private person, endeavoring to suppress an affray, or to apprehend a criminal, knowing the intention with which such private person interposes, then such person or persons, so killing as aforesaid, on conviction, shall be adjudged to be guilty of murder, and shall suffer death.*

67. *And be it enacted by the authority aforesaid, That if any person, owing allegiance to this state, shall, by speech, writing, open deed or act, advisedly and wittingly, maintain and defend the authority or jurisdiction of any foreign power, potentate, republic, king, state or nation whatsoever, in and over this state, or the people thereof, such person so offending shall, on conviction, be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, so that the fine exceed not four hundred dollars, nor the imprisonment the term of one year.*

68. *And be it enacted by the authority aforesaid, That assaults, batteries, false imprisonments, mayhems, affrays, riots, routs, unlawful assemblies, nuisances, cheats, decoits, and all other offences of an indictable nature at common law, and not provided for by this or some other act of the legislature of New-Jersey, shall be deemed and taken to be misdemeanors, and punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, or by fine or solitary imprisonment at hard labor, or both, at the discretion of the court, before whom the conviction shall be had.*

69. *And be it enacted by the authority aforesaid, That the court or justices, before whom any negro, Indian or mulatto slave*

shall be convicted, of any offence not punishable with death, shall have authority to impose, instead of the punishment by this act prescribed, such corporal punishment, not extending to life or limb, as such court or justices in their discretion shall direct.

70. *And be it enacted by the authority aforesaid,* That if any offender, sentenced to hard labor, shall escape, he or she shall, on conviction thereof, suffer such additional confinement at hard labor as the court shall direct.

71. *And be it enacted by the authority aforesaid,* That if any offender, sentenced to imprisonment at hard labor for manslaughter, sodomy, rape, arson, burglary, robbery, or forgery, shall be convicted of a second offence of the like nature, such offender shall suffer death.

72. *And be it enacted by the authority aforesaid,* That if any person be convicted of any offence against this state, not punishable with death, it shall be lawful for the court, before whom such conviction shall be had, to order, beside the punishment prescribed by law, that such offender shall find surety to keep the peace, or be of good behaviour, or both, in such sum for such time, and in such number and sufficiency, as they shall judge proper.

73. *And be it enacted by the authority aforesaid,* That no person or persons shall be prosecuted, tried or punished for treason, or other offence punishable with death (murder excepted) unless the indictment for the same shall be found by a grand jury, within three years next after the treason or other offence, punishable with death, shall be done or committed; nor shall any person be prosecuted, tried or punished for any offence not punishable with death, unless the indictment for the same shall be found within two years from the time of committing the offence, or incurring the fine or forfeiture aforesaid: *Provided,* That nothing herein contained shall extend to any person or persons fleeing from justice.

74. *And be it enacted by the authority aforesaid,* That the manner of inflicting the punishment of death, shall be by hanging the person convicted, by the neck, until dead.

75. *And be it enacted by the authority aforesaid,* That no conviction or judgment for any of the offences aforesaid, or any other offence against this state, shall make or work corruption of blood, disinherison of heirs, loss of dower, or forfeiture of estate.

76. *And be it enacted by the authority aforesaid,* That the benefit of clergy shall be, and the same hereby is abolished and for ever done away.

77. *And be it enacted by the authority aforesaid,* That the suit or action of appeal for murder, manslaughter, rape, arson, larceny, mayhem, or other offence or wrong whatsoever, shall be, and the same hereby is abolished and for ever done away.

78. *And be it enacted by the authority aforesaid,* That until proper buildings are erected for the confinement of persons to hard labor, according to the directions of this act, the sentence of imprisonment in all cases shall be considered as extending to confinement in the gaols in the respective counties of this state.

1796.

ishment may be imposed on negroes.

Offenders sentenced to hard labor, and escaping, how punished.

Conviction of a second offence shall, in certain cases, be punishable with death.

Court may order offenders to find surety to keep the peace, or be of good behaviour.

No prosecution for treason or other capital offence, murder excepted, unless indictment be found within three years, nor in other cases, unless within two years; except the offender flee.

Punishment of death, how to be inflicted.

No conviction or judgment to work corruption of blood, forfeiture of estate, &c.

The benefit of clergy abolished.

The action of appeal for murder, &c. abolished.

Until buildings be erected for hard labor, prisoners to be confined in gaol.

1796.

Certain acts
repealed.

79. *And be it enacted by the authority aforesaid, That the act, entitled "An act for suppressing immorality," except the first section, passed the twelfth day of December, in the year of our Lord, one thousand seven hundred and four; and the act, entitled "An act for continuing an act, entitled an act for the trial and punishment of persons guilty of larceny under the value of twenty shillings," passed the fourth day of November, in the year of our Lord, one thousand seven hundred and forty-one; and the act, entitled "An act to prevent the destroying and murdering of bastard children," passed the day and year last aforesaid; and the act, entitled "An act for the more effectually preventing the counterfeiting the bills of credit of the neighboring governments, or uttering the same in this colony, knowing them to be so counterfeit," passed the twenty-eighth day of June, in the year of our Lord, one thousand seven hundred and sixty-six; and the act, entitled "An act for the more effectual discovery and punishment of the crime of horse-stealing," passed the sixth day of December, in the year of our Lord, one thousand seven hundred and sixty-nine, and a supplementary act thereto, passed the eleventh day of March, in the year of our Lord, one thousand seven hundred and seventy-four; and the act, entitled "An act for more effectually preventing horse-stealing," passed the twelfth day of June, in the year of our Lord, one thousand seven hundred and eighty; and the act, entitled "An act to punish traitors and disaffected persons," passed the fourth day of October, in the year of our Lord, one thousand seven hundred and seventy-six, and a supplement thereto, passed the seventh day of June, in the year of our Lord, one thousand seven hundred and seventy-seven; and the act, entitled "An act more effectually to prevent the passing of counterfeit bills of credit," passed the thirteenth day of June, in the year of our Lord, one thousand seven hundred and eighty; and the act, entitled "An act for the punishment of certain crimes in the state of New-Jersey," passed the fifteenth day of November, in the year of our Lord, one thousand seven hundred and ninety-one, be, and the same are hereby repealed. *Provided always,* That such repeal shall not affect the prosecution, conviction and punishment of any person, who hath offended against the said acts previous to the repeal thereof.*

See supplement, passed 81st May, 1820.

PAT. 222.

A SUPPLEMENT to an act, entitled "An act to prescribe the manner of appointing senators of the United States, and electors of the president and vice-president of the United States, on the part of this state."

Passed the 31st of October, 1796.

Preamble.

WHEREAS in and by the act, entitled "An act to prescribe the manner of appointing senators of the United States, and electors of the president and vice-president of the United States, on the part of this state," passed the twelfth day of November,

in the year of our Lord, seventeen hundred and ninety, the time fixed for appointing the said electors is not in all cases conformable to the law of the United States in that case made and provided—

1797.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the said senators and* electors shall hereafter be appointed on the thirty-fourth day preceding the first Wednesday in December, in every year, in which this state is authorized to elect a senator or senators,* or electors of the president and vice-president of the United states, or either of them, in the manner prescribed in the before recited act.

Senators and electors, when to be appointed.

The original act, see in page 106 of this volume.

AN ACT to suppress fairs.

PAT. 222.

Passed the 27th of January, 1797.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That no fair or fairs shall hereafter be held at any city, town, or place in this state.

No fairs to be hereafter held.

AN ACT giving relief to creditors, where prisoners for debt escape or die.

PAT. 222.

Passed the 28th of January, 1797.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if any person, who is or shall be committed, in execution, to any prison, shall escape from thence, by any ways or means whatsoever, the creditor or creditors, at whose suit such prisoner was charged in execution at the time of his or her escape, may retake such prisoner by any new capias, or capias ad satisfaciendum, or sue forth any other kind of execution on the judgment, as if the body of such prisoner had never been taken in execution.

If a debtor escape from prison, the plaintiff may have a new execution.

2. And be it enacted by the authority aforesaid, That the party or parties, at whose suit, or to whom any person doth or shall stand charged in execution for any debt or damages recovered, his, her or their executors or administrators, may, after the death of the said party so charged and dying in execution, lawfully sue forth and have new execution against the goods and chattels, lands and tenements, or any of them, of the person so deceased, in such manner and form, to all intents and purposes, as he, she or they, or any of them might have had by the laws of this state if such person so deceased had never been taken or charged in

If debtor die in prison upon a ca. sa. plaintiff may have execution against his estate.

* Repealed 18th January, 1815.

1797.

But such execution not to affect any estate bona fide sold for payment of debts.

execution. *Provided always*, That no person or persons, his, her or their executors or administrators, at whose suit or suits any such party shall be in execution, and die in execution, shall have or take any new execution against the lands, tenements or hereditaments of such party so dying in execution, which shall, at any time after the judgment or judgments against such party so dying, and by reason whereof such party was taken or charged in execution, be by him or her sold, bona fide, for the payment of any of his or her creditors; and the money, which shall be paid for the lands so sold, either paid or secured to be paid to any of his or her creditors, with their privity and consent, in discharge of his, her or their due debts, or of some part thereof; nor against any lands, tenements, or hereditaments of such party so dying in execution, which shall have been sold by reason of any other judgment against him or her so dying in execution.

PAT. 223.

AN ACT to prevent the importation of convicts into this state.

Passed the 28th of January, 1797.

Persons convicted of felony or other infamous crime, &c., not to be brought into this state.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That no captain or master of any vessel, or any other person, shall, knowingly or willingly, import, bring or send, or cause, or procure to be imported, brought or sent, or be aiding or assisting therein, into this state, by land or water, any felon-convict, or person convict of an infamous crime, or under sentence of death, or other legal disability, incurred by a criminal prosecution, or who shall be delivered or sent to him or her from any prison or place of confinement, in parts out of the United States.

The penalty for bringing or offering such for sale.

2. *And be it enacted*, That every captain or master of a vessel, or other person, who shall so as aforesaid import, bring or send, or cause or procure to be imported, brought or sent, or be aiding or assisting therein, into this state, by land or water, or shall sell or offer for sale, any such person as above described, knowing him or her so to be, shall forfeit for every such offence, two hundred dollars, to be recovered, with costs, by action of debt, by any person who will sue for the same, in any court of record having cognizance thereof, in which the defendant shall be ruled to give special bail, the one moiety of said forfeiture to the state, and the other moiety to the person suing for the same.

Recognizance to be given to transport such convicts out of the state.

3. *And be it enacted*, That every person, who shall offend against this act, shall, on conviction thereof, be adjudged and ordered to enter into a recognizance, with sufficient sureties, to convey and transport, within such reasonable time as shall be directed by the court, to some place without the limits and jurisdiction of the United States, every such felon-convict or other person of the description aforesaid, which he or she shall have been convicted of having brought, imported or sent, or having caused or procured to be brought, imported or sent, or having been aiding or assisting therein, into this state, or of having so as afore-

said sold or offered for sale; and in default of entering into such recognizance, with sufficient sureties as aforesaid, he or she shall be committed to gaol, there to remain, without bail or mainprise, until he or she shall enter into such recognizance, or shall cause such felon-convict, or other person of the description aforesaid, to be conveyed or transported to some place without the limits and jurisdiction of the United States.

1797.

4. *And be it enacted*, That the act, entitled "An act imposing a duty on persons convicted of heinous crimes, and to prevent poor and impotent persons being imported into this province of New-Jersey, and for amendment of the law relating to servants," passed the eighth day of July, in the year of our Lord, one thousand seven hundred and thirty, be, and the same is hereby repealed.

Former act repealed.

AN ACT to prevent gaming.

PAT. 224.

Passed the 8th of February, 1797.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all playing at cards, dice or other game, with one or more die or dice, or with any other instrument, engine or device, in the nature of dice, having one or more figure or figures, number or numbers thereon, or at billiards, or A. B. C. or E. O. tables, or other tables, or at tennis, bowls or shuffle-board, or at faro-bank, or other bank of the like kind, under any denomination whatever; and all cock-fightings, for money, goods, chattels, or other valuable thing, shall be, and hereby are declared to be offences against this state, and the authors, parties, players, betters, wagerers, contrivers, and abettors in and of the same, shall be prosecuted and proceeded against by indictment.

Cock-fighting and playing at cards or dice, for money, declared to be indictable offences.

2. *And be it enacted*, That all promises, agreements, notes, bills, bonds, contracts, judgments, mortgages, or other securities or conveyances, which shall be made, given, granted, drawn, entered into, or executed by any person or persons, where the whole or any part of the consideration of such promises, agreements, notes, bills, bonds, contracts, judgments, mortgages, or other securities or conveyances, shall be for money, goods, chattels, or other valuable thing or things whatsoever, won, laid, or betted at cards, dice, billiards, tables, tennis, bowls, shuffle-board, or any other game or games, or at any cock-fighting, or other sport or pastime, or for the reimbursing or repaying any money, knowingly lent or advanced at the time and place of such play, cock-fighting, or other sport or pastime, to any person or persons so gaming, laying or betting, or who shall, at such time and place, so play, lay or bet, shall be utterly void and of none effect.

Bets and wagers thereon to be void.

3. *And be it enacted*, That any conveyance, or lease of lands, tenements, or hereditaments, sold, demised or mortgaged, or any sale, mortgage, or other transfer of personal estate, to any person, or for his use, to satisfy or secure money, or other thing by

Real or personal estate sold or mortgaged for gaming debts, shall

1797.

descend to the heirs or legal representatives.

him won of, or lent or advanced to the seller, lessor or mortgagor, or whereof money or other thing, so won, or lent, or advanced, shall be part or all of the consideration money, shall enure to the use of the heirs or legal representatives of such mortgagor, lessor, bargainor or vendor, and shall vest the whole estate and interest of such person in the lands, tenements, or hereditaments, so leased, mortgaged, bargained, or sold, and in the personal estate so sold, mortgaged, or otherwise transferred, to all intents and purposes, in the heirs or legal representatives of such lessor, bargainor, mortgagor, or vendor, as if such lessor, bargainor, mortgagor, or vendor had died intestate; and all grants, conveyances and transfers, to be made for preventing of such lands, tenements, hereditaments, or personal estate from coming to, or devolving upon such person or persons, hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent, void, and of none effect.

When and how persons losing money by gaming, may recover the same.

4. *And be it enacted*, That it shall and may be lawful for any person, who shall lose any money, goods, chattels, or other valuable thing, by playing at cards, dice, billiards, tables, tennis, bowls, shuffle-board, or other game or games, or by betting on the sides or hands of such as do play at any game or games, or by betting at cock-fighting, or other sport or pastime, and shall pay or deliver the same, or any part thereof to the winner or winners, or other person for his or their use, or on his or their behalf, to sue for and recover the money, or value of the thing or things so lost and paid, or delivered, or any part thereof, from the respective winner or winners, with costs of suit, by action of debt, founded on this act, in any court of record in this state having cognizance thereof; in which action it shall be sufficient for the plaintiff or plaintiffs to allege, that the defendant or defendants is or are indebted to the plaintiff or plaintiffs in the moneys so lost and paid, or to the value of the thing or things so lost and delivered, for so much money had and received by such defendant or defendants, to the plaintiff's use, whereby an action hath accrued to the plaintiff or plaintiffs, according to the form of this act, without setting forth the special matter: *Provided*, That such suit shall be instituted within six calendar months after losing and payment, or delivery as aforesaid.

If the loser does not sue within six months, any other person may prosecute.

5. *And be it enacted*, That if the person or persons, who shall lose and pay such money, or lose and deliver such thing or things as aforesaid, shall not, within the time aforesaid, really and bona fide, and without covin or collusion, sue, and with effect prosecute for the money or other thing or things so lost and paid, or delivered, it shall and may be lawful for any other person or persons, by any such action as aforesaid, to sue for and recover the same, with costs of suit, from such winner or winners as aforesaid; the one moiety thereof to the use of the person or persons suing for the same, and the other moiety to the use of the state: *Provided*, That such suit shall be instituted within six calendar months from and after the expiration of the time limited in the preceding section for the loser to prosecute for the same.

Winners compellable to answer bills in equity.

6. *And be it enacted*, That every person who, by virtue of this act, shall or may be liable to be sued for moneys or other

things, so won as aforesaid, shall be obliged and compellable to answer, upon oath or affirmation, such bill or bills as shall be preferred against him in a court of equity, for discovering the money or other things, so won as aforesaid.

1797.

7. *And be it enacted*, That all and every act and acts, part and parts of acts, heretofore made, and coming within the purview of this act, be, and they are hereby repealed.

Former acts repealed.

AN ACT against usury.

PAT. 225.

Passed the 8th of February, 1797.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That no person shall, upon any contract, take, directly or indirectly, for loan of any money, wares, merchandise, goods or chattels, above the value of seven dollars for the forbearance of one hundred dollars for a year, and after that rate for a greater or less sum, or for a longer or shorter time.

Rate of legal interest.

2. *And be it enacted*, That all notes, bills, bonds, mortgages, contracts, covenants, conveyances, and assurances, which shall be made for the payment or delivery of any money, wares, merchandise, goods or chattels, so to be lent, on which a higher interest is reserved or taken than is hereby allowed, shall be utterly void.

Bonds, contracts; &c., for a greater rate, to be void.

3. *And be it enacted*, That if any person shall, by way or means of any bargain, agreement, contract, loan, exchange, shift, covin, device, contrivance, deceit, or conveyance, take, accept or receive, directly or indirectly, for the loan of, or the forbearing or giving day of payment, for any money, wares, merchandise, goods or chattels, above the value of seven dollars for one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time, every person, so offending, shall forfeit the full value of the money, wares, merchandise, goods or chattels so lent, sold, bargained, contracted for, or exchanged; one moiety to the use of the state, and the other to the prosecutor, to be recovered, with costs, by action of debt, or on the case, in any court of record having cognizance thereof.

Penalty on persons taking a greater rate.

4. *And be it enacted*, That any borrower of money, wares, merchandise, goods or chattels, may exhibit a bill in chancery against the lender, and compel him or her to discover, upon oath or affirmation, the money or wares, merchandise, goods or chattels really lent, and all agreements, devices, shifts, bargains, contracts and conveyances, which shall have passed between them relative to such loan, or the repayment thereof, and the interest or consideration for the same, and if thereupon it shall appear, that more than lawful interest was taken or reserved, the lender shall be obliged to accept his principal money, or the wares, merchandise, goods or chattels, or the value thereof, without any interest, or other consideration, and pay costs; but shall be discharged from all other penalties of this act. *Provided always*,

Lenders compellable to answer bills in equity for discovery.

1797.

That such bill be exhibited before any suit shall have been instituted by virtue of the section next preceding.

Rates of bro-
cage on loans.

5. *And be it enacted*, That every solicitor, scrivener, broker or driver of bargains, who shall, directly or indirectly, take or receive more than the rate or value of fifty cents for brocage, or soliciting, or procuring the loan or forbearance of one hundred dollars for a year, and so in proportion for a greater or less sum, or for a longer or shorter time, or above twenty-five cents for drawing, making, or renewing the bond or bill for such loan or forbearance, or for any counter bond or bill concerning the same, shall, for every such offence, forfeit sixteen dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same, the one moiety to the prosecutor, and the other to the state.

Former law
repealed.

6. *An be it enacted*, That the act, entitled "An act to restrain extravagant and excessive interest," passed the fifteenth day of March, in the year of our Lord, one thousand seven hundred and thirty-eight-nine, be, and it is hereby repealed.

PAT. 226.

AN ACT to incorporate into a township, a part of the townships of Saddle-River and Franklin in the county of Bergen.

Passed the 8th of February, 1797.

Preamble.

WHEREAS a number of the inhabitants of the townships of Saddle-River and Franklin, in the county of Bergen, have by their petition set forth, that they have long labored under many difficulties by reason of the length of the said townships; for remedy WHEREOF—

Bounds of the
township of
Pompton.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all that part of the townships of Saddle-River and Franklin, lying within the following line; beginning on the line that divides the state of New-York and New-Jersey, where the said line strikes the first pond in the Ramapough mountain, from thence on a direct line until it strikes the division line of said townships, at the north-west corner of John Ryerson's land, thence along said line until it strikes the Ramapough river, thence along said river until it meets the Pequannock river, thence up said river until it meets the line that divides the counties of Bergen and Sussex, thence along said line until it meets the line that divides the state of New-York and New-Jersey, thence along said line to the place of beginning, shall be, and is hereby set off from the said townships of Saddle-River and Franklin, and made a separate township, to be called by the name of "The township of Pompton."

AN ACT for dividing the township of Windsor in the county of Middlesex, into two separate townships.

1797.

PAT. 226.

Passed the 9th of February, 1797.

WHEREAS it hath been represented to the legislature, by the petition of sundry inhabitants of the township of Windsor, in the county of Middlesex, that it would tend greatly to promote the convenience of the inhabitants of the said township to have the same divided into two separate townships—

Preamble.

BE IT THEREFORE ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the said township of Windsor, lying to the eastward of the following line, to wit; beginning at Millstone creek, in the line separating the lands of William Dook from lands of Iscarrick Moore, running thence along said Iscarrick Moore's line until it strikes the westwardly line of lands late the property of William Smith, deceased, thence along said last mentioned line to the easterly line of ——— Lyell's land, thence along said Lyell's easterly line until it strikes Assanpink creek, thence down Assanpink creek to Augustine Gordon's line, thence along said Gordon's line to the Province line, commonly called Keith's line, shall be, and the same is hereby set off from the said township, and established a separate township, to be called and known by the name of "East-Windsor;" and that all that part of the said township of Windsor lying to the westward of the aforesaid line shall be, and the same is hereby established a separate township, to be called by the name of, "West-Windsor."

Line between East and West Windsor.

AN ACT to prevent the use of spirituous liquors at vendues.

PAT. 227.

Passed the 11th of February, 1797.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if any person, who shall make any vendue in this state, shall give or sell, or suffer to be given or sold, in order to be drank at the time and place of such vendue, any vinous, spirituous, or other strong liquors, such person, so offending, shall forfeit twenty dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same, in any court of record having cognizance of that sum, one half to the prosecutor, and the other half to the overseers of the poor of the township or precinct, where the offence was committed, for the use of the poor thereof.

Penalty on giving or selling spirituous liquors at vendues.

2. Provided always, and be it further enacted, That this act shall not extend to any vendue made or held at any inn or tavern by any civil officer.

This act not to affect vendues held by civil officers.

3. And be it enacted, That all and every clause and clauses of any act, coming within the purview of this act, be, and they are hereby repealed.

Former laws repealed.

1797.

PAT. 227.

AN ACT for suppressing of lotteries.

Passed the 13th of February, 1797.

Lotteries de-
clared com-
mon nuisances
and indictable.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all lotteries for money, goods, wares, merchandise, chattels, lands, tenements, hereditaments, or other matters or things whatsoever, shall be, and hereby are adjudged to be common and public nuisances; and the supreme court, the courts of oyer and terminer and general gaol delivery, and the courts of general quarter-sessions of the peace, shall respectively have cognizance of such offences.*

Penalty on
persons who
shall make or
draw lotteries.

2. *And be it enacted, That no person or persons shall, within this state, publicly or privately, erect, set up, open, make or draw any such lottery or lotteries; and every person, who shall offend in the premises, shall forfeit, for every such offence, two thousand dollars, to be recovered by action of debt, with costs, by any person who will sue for the same, in any court of record having cognizance thereof; the one moiety of such forfeiture to be paid to the treasurer of this state, for the use of the state, and the other moiety to the person, who shall sue for the same; and the person so offending shall likewise be proceeded against by way of indictment, as is directed in the preceding section.*

Persons selling
or offering to
sell, &c., lot-
tery tickets, to
forfeit thirty
dollars.

3. *And be it enacted, That if any person shall give, barter, sell, or otherwise dispose of, or offer to give, barter, sell, or otherwise dispose of any ticket or tickets, in any lottery, whether erected, set up, opened, or made in this state or elsewhere; or if any person shall receive or purchase the same, or in any other way become an adventurer therein; or if any person shall be aiding or assisting in any such lottery, by printing, writing, or in any other manner publishing an account thereof, or where tickets may be had or obtained in the same, or if any person shall set up, shew, or expose to public view, any scheme or schemes, advertisement or advertisements, of or concerning such lottery, or shall permit or suffer any such lottery to be drawn in or on his or her house or land; every person, so offending, shall, for every offence, forfeit and pay the sum of thirty dollars, to be recovered and applied in the manner prescribed in and by the section next preceding.*

Transfers of
property made
in pursuance
of lotteries, to
be void.

4. *And be it enacted, That every grant, bargain, sale, conveyance, or transfer of any goods or chattels, lands, tenements, hereditaments or real estate, which shall be made in pursuance of any such lottery, is hereby declared to be invalid and void.*

This act not
to extend to
certain lotte-
ries.

5. *Provided always, and be it further enacted, That this act shall not extend to, or affect any lottery, which shall be established by or under the authority of the United States, or which has been or shall be established by or under the authority of the legislature of this state.*

Former laws
repealed.

6. *And be it enacted, That the act, entitled "An act more effectually to prevent the erecting of lotteries and selling of lottery*

tickets within this colony," passed the eleventh day of March, in the year of our Lord, one thousand seven hundred and seventy-four; and the act, entitled "An act to prevent the sale of tickets in lotteries erected out of this Province, and more effectually to prevent gaming, and to revive three public lotteries appointed by a former law of this colony," passed the fifth day of December, in the year of our Lord, one thousand seven hundred and sixty, and all and every other act and acts, clause and clauses of acts heretofore made, and coming within the purview of this act, be, and they are hereby repealed.

1797.

AN ACT to authorize the treasurer of this state to receive certain moneys due from the United States, and also to authorize the said treasurer to pay the state debt. PAT. 223.

Passed the 13th of February, 1797.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the treasurer of this state, for the time being, shall be, and he is hereby authorized and directed to receive from the commissioner of loans, appointed by the United States for the state of New-Jersey, the dividends, which now are or shall be payable according to law, on the stock, which stands to the credit of this state on the books of the said commissioner, in consequence of an act, passed on the thirty-first day of May, in the year one thousand seven hundred and ninety-four; and also, such additional sums as will render the reimbursement of the said stock, equal to that made upon the residue of the stock, standing in the said books at the commencement of the present year.

Treasurer authorized to receive certain moneys from the commissioner of loans of the United States.

2 and 3. Executed.

AN ACT to regulate the election of members of the legislative council and general assembly, sheriffs and coroners, in this state. PAT. 229.

Passed the 22d of February, 1797.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the clerks of the courts of common pleas of the several counties in this state shall attend at the court-house of their respective counties, on the first Monday in September in each and every year, and shall there receive, at any time between the hours of ten in the morning and five in the afternoon of the same day, from any person qualified to vote for members of the legislature for such county, a list of the persons proposed as candidates for members of the legislative council, members of the general assembly, sheriff and coroners of such county; which list such person or persons shall subscribe with his or their names, and may either deliver personally, or transmit by letter to the said clerks.

Clerks of the common pleas when and where to receive nominations of candidates for the legislature.

1797.

List of nominations to be sent to the town-clerks.

Town-clerks to advertise the time and place of election, and the names of the candidates.

Duties of the judge of election, assessor, and collector.

Oath of the clerk.

If the judge, assessor, or collector, be disqualified or absent, another person to be elected, and by whom.

2. *And be it enacted*, That the said clerks of the court of common pleas, respectively, shall, on the same day, after the said hour of five o'clock, make a general list of all the persons nominated, and the offices for which they shall have been respectively proposed, and transmit a copy thereof within one week thereafter to each of the clerks of the several townships or precincts of the county; and no vote shall be received for any person on the day of election, unless he hath been previously nominated in the manner herein before mentioned.

3. *And be it enacted*, That the clerks of the several townships or precincts of each county shall, fourteen days before the second Tuesday in October in each and every year, put up, or cause to be put up, advertisements, in three or more of the most public places in such township or precinct, making known the time and place or places of holding the election, and the names of the persons proposed as candidates; and on the said second Tuesday in October yearly, the judge of election, assessor, collector and town-clerk of every township and precinct, shall attend at the place of holding the town-meeting, or at such other place as the people at their annual town-meeting shall appoint; and the said clerk shall, on the same day, between the hours of nine and ten in the morning, put up in public view, on the door of the house at which the election shall be held, the general list received by him, or a fair copy thereof; and the said judge of election, assessor and collector, or any two of them, shall, at the said hour of ten o'clock, make or cause to be made public proclamation, that the poll is opened for the reception of voters, and shall judge and determine the persons that are qualified to vote agreeably to this act, as they respectively offer themselves for that purpose, and shall keep good order during the time of election, and may at any time during the day adjourn the poll for a short period, as occasion may require, in case no voters appear to give in their votes, and shall close the poll and certify the number of votes, in the manner herein after prescribed.

4. Repealed and supplied by act June 1, 1820.

5. *And be it enacted*, That the clerk of the township or precinct, or any person by him appointed for the purpose of the election, and approved of by the said judge, assessor and collector, or any two of them, shall take, before the said judge, assessor and collector, or any two of them, the following oath or affirmation: "I do swear (or affirm) that I will faithfully and impartially serve as clerk of this election, and execute the duties and services required of me by law."

6. *And be it enacted*, That if the said judge, assessor, collector, or town-clerk, shall be a candidate at such election, such person or persons shall be disqualified from serving or assisting to conduct the said election; and if the said judge, assessor and collector, or either of them, shall not be present at the time and place of holding the election, or shall be disqualified to hold the same, then, at the said hour of ten o'clock, the people present entitled to vote, shall proceed to choose a person or persons to serve in the stead of him or them so absent or disqualified; which person or persons, so chosen, shall take the oath or affirmation

herein before required, and shall in all respects perform the duties and services, and be entitled to the same rewards, and subject to the like penalties as are herein after specified for the said judge, assessor and collector; and a certificate shall be made of such choice, signed by at least three reputable freeholders present, which shall be transmitted to the clerk of the court of common pleas of the county, within three days thereafter, whose duty it is hereby declared to be, to prosecute the person or persons so absent, in the manner herein after directed, unless the judges of the said court of common pleas, at the next term thereafter, shall admit the excuse of such absentee to be good and sufficient.

1797.

7. *And be it enacted*, That if the clerk of the township or precinct shall be absent, or by death, removal or other inability, be unable to perform the duties enjoined on him by this act, and shall not appoint any one in his stead, to be approved of as aforesaid, or shall be disqualified from acting, then the said judge, assessor and collector, or any two of them, shall be, and they are hereby empowered to appoint a fit person clerk of the election, who shall in like manner take the oath or affirmation herein before required of the town-clerk, and shall perform the same duties and services, and be entitled to the like rewards, and be subject to the same penalties as are herein prescribed for the said town-clerk; and a certificate of such appointment shall be made and signed by the said judge, assessor and collector, or any two of them, and transmitted to the clerk of the court of common pleas of the county, who shall in like manner prosecute such absent clerk, unless the judges of the court aforesaid shall admit his excuse.

If town-clerk be absent, or unable to execute the duties required by this act, by whom a clerk of election shall be appointed.

8. Repealed and supplied by act June 1, 1820.

9. *And be it enacted*, That every voter shall openly, and in full view deliver his or her ballot (which shall be a single* written ticket, containing the names of the person or persons for whom he or she votes) to the said judge, or either of the inspectors, who, on receipt thereof, shall, with an audible voice, pronounce the name of such voter, and if no objection is made to the voter, put the ballot immediately into the election box, and the clerk of the election shall thereupon take down the name of such voter in a book or poll list, to be provided for the purpose; and if an adjournment of the poll shall take place during the election, the aperture in the top of the box shall be secured by the bolt aforesaid, and the names on the poll list shall be counted, and the number put down in writing, and the said list locked in the box, and the keys kept separate by two of the persons hereby appointed to conduct the election.

Ballots how to be delivered, and by whom to be received.

On adjournment of the poll, how election box to be secured.

10. *And be it enacted*, That at the close of the poll, the aperture in the lid of the box shall be covered in the manner aforesaid, and the poll list shall be signed by the said judge and inspectors, or any two of them, and also by the said clerk; and the names contained therein shall be numbered, and the number put

At the close of the poll, the poll list to be signed by the judge, inspectors, and clerk, the names numbered and put down in

* Either written or printed, or partly written and partly printed. See sec. 15, act June 1, 1820.

1797.

writing; and then the box opened; the ballots counted, and the votes cast up.

down in writing; after which the box shall be opened, and the ballots therein contained taken out, one at a time, by any one of the persons hereby appointed to conduct the election, who shall call out distinctly, while the ballot remains in his hands, the names contained therein, and for what offices, and then deliver the same to one of the other persons associated with him by this law, who shall distinctly read off, and file the same, and the clerk shall enter in distinct columns all the names contained in each ballot, and for what offices, and so on in like manner with the rest of the ballots contained in the box, to the amount of the number of names contained in the poll list; and if it shall so happen that there are a greater number of ballots than there are names on the poll list, then no more ballots shall be examined and enumerated than will amount to the number of names on the poll list; and if two or more ballots shall be found folded or rolled up together, or if a ballot shall contain more names than it ought to contain, or otherwise appear to be fraudulent, such ballot or ballots shall not be estimated, but shall be rejected as utterly void, and as many numbers shall be deducted from the amount of the poll list as shall be equal to the number of ballots so rejected; and after the examination of the ballots shall be completed, the number of votes for each candidate shall be carefully cast up by the said clerk, under the inspection of the persons hereby empowered to conduct the election, or any two of them, and be publicly declared unto the people present.

11. Repealed, and supplied by act June 1, 1820.

Threats, bribery, false assertions and reports, indirect means, and offensive weapons, prohibited at elections, upon forfeiture of § 30.

12. *And be it enacted*, That if any candidate shall, at any such election, or previous thereto, solicit any voter or voters, either personally or by letter, message, advertisement or otherwise, to nominate him, or to vote for him, or if any person whatsoever shall at such election, give, offer or promise any fee or reward, victuals, drink or other consideration to or for the use of any person or persons, or to or for the use of any county, city, township, precinct, or body politic or corporate, or by bribery or corruption, endeavour to prevail on any person to nominate him, or to vote for him, or to nominate or vote for any other person, or shall appear at such election with any weapons of war, or staves, or bludgeons, or use any threats, that may tend to put any of the candidates or voters in fear of personal danger, or shall by any other way endeavor to intimidate, or by indirect means persuade any voter to give, or to dissuade any voter from giving his vote for the choice of any candidate, or shall make any false assertion or propagate any false report concerning any candidate, with a view to prevent his being elected, or that shall have any evident tendency thereto, or shall summon or request any party of militia to attend at the time and place of election, every such person shall, for every such offence, forfeit and pay the sum of thirty dollars, to be recovered, with costs of suit, by any person that will sue for the same, in any court having cognizance thereof, one half to the use of the prosecutor, and the other half to be paid to the collector of the county, wherein such offence was committed, for the use of the county; and such offender shall be further liable to a private action at the suit of the party injured.

13. *And be it enacted*, That the said judge and inspectors, or any two of them, shall continue to receive the votes of all voters offering themselves for that purpose, until seven of the clock in the evening of the next day, and no longer, and at the close of the poll, the said judge and inspectors, or any two of them, shall proceed to ascertain the number of votes for each candidate in the manner herein before prescribed, and shall thereupon make a certificate, under their hands and seals, in the following or like form:

1797.

Poll, when to be closed.

See sec. 9, act June 1, 1820.

We, the judge and inspectors of election of the township (or precinct) of _____ in the county of _____ do hereby certify, that having proceeded to receive the votes of the voters of the said township (or precinct) the following is a list of all the candidates voted for, of the offices proposed for them, and of the number of votes for each.

Form of the election certificate.

For members of the legislative council.

A. B.	Number of votes.
C. D.	

For members of the general assembly.

E. F.	Number of votes.
G. H.	
I. K.	
L. M.	
N. O.	

For sheriff.

P. Q.	Number of votes.
R. S.	

For coroners.

T. U.	Number of votes.
V. W.	
X. Y.	
Z. A.	

The whole number of votes received.

In testimony whereof, we have hereunto subscribed our names and affixed our seals, this _____ day of October, in the year of our Lord

And the said judge and inspectors, or any two of them, shall likewise prepare and execute, under their hands and seals, a duplicate certificate of such election, which shall be filed in the office of the town-clerk, together with the poll list of the election, to be used as occasion may require; in all which certificates the number of votes for each candidate shall be written in words at length and not in figures.

A duplicate certificate of the election to be filed in the office of the town-clerk.

14. *And be it enacted*, That the said judge of elections, or either of the inspectors, shall deliver or safely transmit the said certificate of election to the clerk of the court of common pleas, who shall attend at the court-house of the county, on the Saturday next after the day of election, for the purpose of receiving the same, and which certificate shall be delivered to him before three

The certificate of the election to be sent to the clerk of the pleas.

1797.

His duty thereupon.

o'clock in the afternoon of said day; which said clerk shall then proceed, in a public manner, to make a list of the votes for each candidate from the several certificates, and shall add the whole together, and shall thereby ascertain, who are duly elected, by plurality of votes, to the several offices for which an election shall have taken place, and shall thereupon file the said certificates, and the list of votes made thereupon in his office, certificates of which he shall prepare for the members of the legislative council and general assembly, to be signed and sealed by himself, in the following or like form:

Form of certificate for a member of the legislature.

"I clerk of the court of common pleas of the county of _____ do hereby certify, that _____ is duly elected member of the legislative council (or general assembly, as the case may be) for the said county of _____ for the ensuing year. Witness my hand and seal this _____ day of _____ in the year of our Lord _____

And for the sheriff and coroners, in the following or like form, to be signed and sealed by the said clerk, together with six free-holders of the county:

Form of certificate for sheriff and coroners.

"We, _____ clerk of the court of common pleas of the county of _____ and (here insert the names of six) free-holders in the said county, do hereby certify, that _____ is duly elected sheriff (or one of the coroners, as the case may be) of the said county of _____ for the ensuing year. Witness our hands and seals the _____ day of _____ in the year of our Lord _____

Duplicates of such certificates to be sent to the governor.

Which certificate the said clerk shall transmit to the person whose election is certified therein, and shall forward duplicate copies of all such certificates, together with a copy of the list of votes filed in his office, under a sealed cover, to his excellency the Governor of the state, or the person administering the government for the time being, so that the same may be received by him within fourteen days thereafter.

15. ~~Repealed~~ and supplied by act, June 1, 1820.

Compensation of certain officers for their services relative to elections.

16. *And be it enacted*, That the respective clerks of the court of common pleas shall be allowed, for the services required of them by this act, the sum of four dollars each; and the clerk of each township or precinct, for advertising in the manner directed by this act, the sum of one dollar and fifty cents; and the judge of election, inspectors and clerk, for attending the election, the sum of one dollar and fifty cents, by the day, each; and the person delivering the certificate of election to the clerk of the court of common pleas, the sum of eight cents for every mile of the distance from the place of his abode to the court-house of the county; all which sums shall be paid by the collector of the county.

Elections, where to be held.

17. *And be it enacted*, That it shall and may be lawful for the inhabitants of each township and precinct within this state, at their annual town-meetings, to appoint the place or places, not exceeding two, for holding elections within their respective townships or precincts; and in case the inhabitants of any township or precinct, as aforesaid, shall neglect such appointment, then, and in such case, the election shall be held at their usual place or places of holding town-meetings.

18. *And be it enacted*, That the inhabitants of each of the townships or precincts in the several counties of this state, who are qualified by law to elect town-officers, shall be, and they are hereby authorized and required, at their annual town-meeting, to choose one reputable freeholder as a judge of elections.

1797.

Judges of elections, when and by whom to be appointed.

19. *And be it enacted*, That if any person, chosen to represent any county in this state, in council or assembly, shall neglect or refuse to take his seat pursuant to his election, or to send forward an excuse, which shall be deemed satisfactory, within twenty days after the meeting of the legislature, or shall die, or remove out of the state, or be expelled from his seat by a vote of the house to which he may belong, then, and in every such case, the vice-president of the council, or speaker of the house of assembly, as the case may be, shall issue a warrant to the clerk of the county where the vacancy or vacancies may happen, who shall immediately advertise in five of the most public places in such county, setting forth that he will attend at the court-house of the county on a day by him named in said advertisements, not less than five, to receive the nomination of persons to supply such vacancy or vacancies; which nomination and election shall be conducted, in every respect, in the mode herein prescribed for annual elections, except that the nomination shall be made only fourteen days previous to the day appointed for the election to be held.

On vacancies, warrants for a new election to be issued by the vice-president of the council, or speaker of the assembly.

20. *And be it enacted*, That the act, entitled "An act to regulate the election of members of the legislative council and general assembly, sheriffs and coroners, in the counties of Bergen, Monmouth, Burlington, Gloucester, Salem, Hunterdon and Sussex," passed the eighteenth day of November, in the year of our Lord, one thousand seven hundred and ninety, with the several supplements thereto, and all other acts respecting the election of members of the legislature, sheriffs and coroners, now in force in this state, shall be, and the same is and are hereby repealed after the first day of March next.

Former act repealed.

See supplement, June 1, 1820.

AN ACT to prevent routs, riots and tumultuous assemblies.

PAT. 234.

Passed the 24th of February, 1797.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the publication of this act, if any persons, to the number of twelve or more, being armed with clubs, guns, swords, or other weapons, or if any number of persons, consisting of thirty or more, shall be unlawfully, routously, riotously, or tumultuously assembled, any justice of the peace, sheriff, undersheriff, or constable of the county, where such assembly shall be, shall, among the rioters, or as near to them as he can safely come, command silence, while proclamation is making, and shall, openly and with a loud voice, make, or cause to be made, proclamation in these or the like words:

Proclamation to be made among rioters, commanding them to disperse.

1797.

Form of proclamation.

Justices, sheriffs and constables to resort to the place and make the said proclamation.

Rioters, not dispersing within an hour after such proclamation, to be apprehended;

and if they make resistance, the persons killing them to be held guiltless and discharged.

Persons, who shall oppose the making such proclamation, how to be punished.

State of New-Jersey. By virtue of an act of this state, entitled "An act to prevent routs, riots and tumultuous assemblies," I am directed to charge and command all persons, being here assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains and penalties contained in the said act. God save the state.

And all justices of the peace, sheriffs, under-sheriffs, and constables, within the limits of their respective jurisdictions, are hereby authorized, empowered and required, on notice or knowledge of any such unlawful, routous, riotous, or tumultuous assembly, to resort to the place where such unlawful, routous, riotous, or tumultuous assembly shall be, and there to make, or cause to be made, proclamation in manner aforesaid.

2. *And be it enacted by the authority aforesaid,* That if such persons, so unlawfully, routously, riotously, and tumultuously assembled as aforesaid, shall, after proclamation made, or attempted to be made, in manner aforesaid, continue together and not disperse themselves within one hour, then it shall and may be lawful to and for every justice of the peace, sheriff, under-sheriff, or constable of the county where such assembly shall be, and to and for such other person and persons, as shall be commanded to be assisting unto any such justice, sheriff, under-sheriff, or constable, (who are hereby respectively authorized and empowered to command all the citizens of this state, to be assisting to them therein) to seize and apprehend, and they are hereby required to seize and apprehend such persons, so unlawfully, routously, riotously, and tumultuously continuing together, after proclamation made, or attempted to be made, as aforesaid, and forthwith to carry the persons so apprehended, before one or more of the justices of the peace of the county, where such persons shall be so apprehended, in order to their being proceeded against, for such their offences, according to law; and if the persons so unlawfully, routously, riotously, and tumultuously assembled, or any of them, shall happen to be killed, wounded or hurt, in the dispersing, seizing or apprehending, or endeavoring to disperse, seize or apprehend them, by reason of their resisting the persons so dispersing, seizing or apprehending, or endeavoring to disperse, seize or apprehend them, then every such justice of the peace, sheriff, under sheriff, or constable, and all and singular person and persons, being aiding or assisting to them, or any of them, shall be held guiltless, and be absolutely indemnified and discharged.

3. *And be it enacted by the authority aforesaid,* That if any person or persons, do or shall, with force and arms, wilfully and knowingly, oppose, obstruct, or in any manner, wilfully and knowingly, let, hinder, or hurt any person or persons, that shall begin to proclaim, or go to proclaim, according to the proclamation hereby directed to be made, whereby such proclamation shall not be made, that then every such opposing, obstructing, letting, hindering, or hurting such person or persons, so beginning, or going to make such proclamation as aforesaid, shall be adjudged a misdemeanor, and be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both.

the fine not to exceed one hundred dollars, nor the imprisonment six months. 1797.

4. *And be it enacted by the authority aforesaid,* That all persons, who, for the space of one hour after proclamation made, or attempted to be made, as aforesaid, shall unlawfully, routously, riotously and tumultuously continue together, to the number of twelve or more, if armed, or if thirty or more, if unarmed, as aforesaid; then such persons, so offending, shall be adjudged guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, the fine not to exceed one thousand dollars, nor the imprisonment three years.

Punishment for unlawfully continuing together an hour after proclamation made.

5. Repealed, 177.

AN ACT concerning inns and taverns.

PAT. 235.

Passed the 24th of February, 1797.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the courts of general quarter-sessions of the peace, in and for the several counties of this state, shall be, and they are hereby authorized to grant licenses to persons to keep inns and taverns, and to utter and sell victuals, and vinous, spirituous, and other strong liquors, for the accommodation of men, and provender for horses, within their respective counties, in the manner prescribed by this act, and not otherwise.

Courts of quarter-sessions empowered to grant tavern-licenses.

2. Repealed, and supplied by act, June 1, 1820.

3. *And be it enacted,* That if any person, who shall sign a recommendation as aforesaid, shall therein have imposed on the court, either by signing to an undeserved character, or by describing a situation not true, or in any other manner, then every person, so offending, shall be deemed guilty of a misdemeanor, and on conviction, shall be fined in the sum of ten dollars, to be paid to the overseers of the poor, where the said inn and tavern was proposed to be kept, and applied to the use of the poor of the township or precinct.

Persons recommending improper characters, to be fined \$10.

4. *And be it enacted,* That every person, before he or she shall receive a license to keep an inn and tavern, shall become bound by recognizance to the state, in the sum of one hundred dollars, as principal, with two sufficient sureties, being freeholders in the county, in the sum of fifty dollars each, to be taken before the court, that shall grant the said license, with condition following; to wit,

Tavern-keepers to enter in to recognizance with sureties.

The condition of this recognizance is such, that whereas the above bounden A. B. is licensed by the court, to keep an inn and tavern, in the house where dwelleth, in the township or precinct of in the county of for the space of one year next ensuing; if, therefore, the said A. B. during the continuance of the said license, shall not keep a disorderly inn or

Form of recognizance.

1797.

tavern, nor game himself or herself, nor suffer any person to game in his or her house, for money, or the value of money, nor violate the laws made concerning inns and taverns, but shall, during the said term, in all things respecting him or her as an inn-holder and tavern-keeper, use and maintain good order and rule, and find and provide good, wholesome, and sufficient lodging, diet and entertainment for man, and stabling and provender for horse, and observe the directions of the law relating to inns and taverns; then this recognizance to be void, or else to remain in full force and virtue.

And if the applicant for a license, to keep an inn and tavern, shall be prevented by sickness, infirmity, or other reasonable cause, to be judged of and allowed by the said court, from attending in person, then the said court may grant the license, on three sureties as aforesaid, entering into such recognizance, in sixty dollars each. All recognizances taken by virtue of this section, shall be and remain with the clerk of the court, before whom the same shall be taken.

Recognizance to remain with the clerk.

Fees of the court and clerk, for each license and recognizance.

5. *And be it enacted*, That it shall be lawful for the said court to demand and receive, for every such license granted and recognizance taken, the sum of one dollar; and for the clerk of the court, to demand and receive, for entering, drawing and filing such recognizance, and drawing the license, and annexing thereto the seal of the court, and making entry in the minutes, of such license being granted, the sum of one dollar.

License to be signed and sealed.

6. *And be it enacted*, That every license to keep an inn and tavern, shall be signed by the clerk of the court, which granted the same, and shall have the seal of the said court thereto affixed by the said clerk; which license shall be in the words, or to the effect following:

Form of the license.

County, to wit.

At the court of general quarter-sessions of the peace, in and for the said county, held at _____ in the same, the _____ day of _____ in the year of our Lord, one thousand _____

The said court doth hereby allow and license A. B. of the township of _____ in the county aforesaid, to keep an inn and tavern, in the house wherein _____ dwells, for one whole year from the day above said, and no longer; so that the said A. B. shall use and exercise this license, during the said term, according to the tenor and true meaning of the laws in such case made and provided. Given under my hand and the seal of the said court, the day and year first above written.

C. D. Clerk.

License restricted to the place.

7. *And be it enacted*, That no license shall entitle any person to keep an inn and tavern in any other place, than that in which it was first kept, by virtue of such license; and such license, with regard to all other places and persons, shall be void.

License to continue for one year, but may be renewed.

8. *And be it enacted*, That every license to keep an inn and tavern, shall be made to continue for one year, and no longer; but may be renewed yearly by the said courts, upon the like recommendation, penalties, assessments, and fees, and in the same

manner in every respect, as when such license was originally granted. *And further*, If any person, who, at the expiration of his or her license, shall neglect or refuse to renew the same in manner aforesaid, and shall, notwithstanding, sell and retail vinous, spirituous or strong liquors, then such person shall be subject to the like penalties, as for selling without license.

1797.

9. *And be it enacted*, That it shall be the duty of, and it is hereby expressly enjoined upon, the said courts, to license no more inns and taverns, in their respective counties, than shall be necessary to accommodate and entertain travellers and strangers, to serve the public occasions of the said counties, and for the convenience of men's meeting together to transact business; and to prevent as much as possible, inns and taverns to be kept for the encouragement of gaming, tippling, drunkenness, and other vices.

Courts to license no more taverns than are necessary.

10. *And be it enacted*, That the said courts shall not grant a license to keep an inn and tavern, to any sheriff, under-sheriff, or gaol-keeper.

No sheriff, under-sheriff, or gaoler, to be licensed.

11. *And be it enacted*, That the said courts shall not grant a license to any shop-keeper, to keep an inn and tavern; neither shall any inn and tavern, and shop, for selling goods, wares, and merchandise, be kept in one house; and if any shop-keeper, shall give or retail strong liquors, so as to encourage drunkenness, revelling or frolicking in his or her house or store, he or she shall forfeit sixteen dollars for every such offence, to be recovered, with costs, by action of debt, by any person who will prosecute for the same, in any court of record, having cognizance of that sum.

License not to be granted to a shop-keeper.

Shop-keepers giving, &c., liquor, so as to encourage drunkenness, what to forfeit.

12. *And be it enacted*, That every inn-holder and tavern-keeper, shall have and keep in his or her house, at least two good feather-beds for guests, with good and sufficient bed-clothes for the same, and provide and keep good, wholesome, and sufficient diet for travellers, and stabling and provender of hay and grain for four horses more than his or her own stock, upon pain of forfeiting, for every neglect or default of having any of the articles in this clause mentioned, the sum of three dollars, to be recovered by action of debt, with costs, in any court of record, having cognizance thereof, by any person or persons, who shall prosecute for the same.

Tavern-keepers, how to be provided.

Penalty for not being so provided.

13. *And be it enacted*, That every person, to whom the court shall see cause to grant a license to keep an inn and tavern, shall, before the delivery of the said license to him or her, pay to the clerk of the said court, such sum, as the said court shall assess thereon; and the said court shall take into consideration, the situation and circumstances of the place where the inn and tavern is intended to be kept, as affording more or less profit to the applicant, and agreeably thereto, shall ascertain the sum to be paid for every license, not being less than ten nor more than seventy dollars; and no license shall be delivered to any person, unless the money, so assessed for the same, shall have been paid to the clerk of the court.

Court to assess what each person is to pay for a license.

1797.

The clerk to pay such license money to the county collector for the use of the county.

14. *And be it enacted*, That it shall be the duty of every clerk of the said courts, to make and enter upon the minutes of the said courts, a true account of the moneys, which he shall from time to time receive upon licenses granted for inns and taverns, and to pay the same moneys, within two weeks after the receipt thereof, to the collector of the county, to and for the use of the said county, accompanied with a copy of the account thereof from the minutes, signed by at least three of the justices present, a duplicate of which account, signed as aforesaid, the said clerk shall also transmit to the clerk of the board of justices and chosen freeholders of the said county.

The county collector to lay a state thereof before the board of chosen freeholders.

15. *And be it enacted*, That it shall be the duty of every county collector, to lay yearly and every year before the board of justices and chosen freeholders of such county, at their annual meeting, an accurate state and account of the moneys, which he shall have received from the clerk aforesaid, upon licenses for inns and taverns, together with the settlement he shall have made with the said clerk, for such moneys.

The clerk accountable to the board.

16. *And be it enacted*, That the said clerks shall at all times, be accountable to the board of justices and chosen freeholders, for the moneys, which they shall receive for licenses as aforesaid, to and for the use of the said counties respectively.

The court to fix the rates to be taken by tavern-keepers; which shall be set up and kept in the most public room in the tavern, under the penalty of four dollars.

17. *And be it enacted*, That it shall be the duty of the said courts, and they are hereby respectively empowered and directed, at every of their spring sessions hereafter, to ascertain the rates and prices of the several liquors, meat, and entertainment for man, and also fix the several sums for the provender, stabling and pasture for horses, to be taken by every licensed inn-holder and tavern-keeper, within their respective counties; and every such inn-holder and tavern-keeper, shall obtain from the clerk of the court, and in ten days after such session fix or set up to open view, in the most public room in his or her inn and tavern, a fair copy of the rates and prices of the articles and things, so ascertained by the said court, with a copy of this clause thereto subjoined, attested by the said clerk, and keep up the said copy so as aforesaid, exposed to open view until a new rate shall be made, under the penalty of four dollars for every day that he or she shall refuse, neglect, or omit to fix, set, or keep up the said rates, to be sued for and recovered by action of debt, with costs, in any court of record, having cognizance thereof, by any person or persons, who shall prosecute for the same; *And further*, If any inn-holder and tavern-keeper, shall ask, demand, or receive a greater price for any liquors, diet, lodging, provender, stabling, pasturage, or other article, than by such rate shall be allowed, he or she so offending, shall, for every offence, forfeit and pay four dollars, to be recovered in the manner last above mentioned, and his license shall immediately thereupon become void; and lastly, the said clerk shall be entitled to receive from such inn-holder and tavern-keeper, for the copy of rates aforesaid, and this section thereto annexed, the sum of fifty cents.

Penalty on tavern-keepers asking or receiving more than the price rated by the court.

Tavern-keepers to put a sign before their houses.

18. *And be it enacted*, That every inn-holder and tavern-keeper, shall, within twenty days after obtaining his or her license, put

up or fix a sign on or adjacent to the front of his or her house, with his or her name thereon, and keep such sign up, during the time he or she shall keep an inn and tavern, under the penalty of one dollar for every month's neglect thereof, to be recovered by action of debt, with costs, in any court of record having cognizance thereof, by any person or persons who shall prosecute for the same.

1797.

19. *And be it enacted*, That it shall be deemed an offence against this state, for any inn-holder or tavern-keeper, to permit or suffer any cock-fighting, or playing with cards or dice, or to keep any billiard table, or other gaming table, in his or her inn or tavern, or in any out-house, tenement, yard, or garden, belonging thereto, or therein to permit any kind of gaming by lot or chance.

Tavern-keepers not to permit gaming in their houses.

20. *And be it enacted*, That it shall be the duty of the said courts, within their respective counties, to revoke or annul any license by them granted, to any person to keep an inn and tavern, in case such person shall offend against any section or part of this act, or shall not observe the directions thereof, or shall not do all and every the matters and things therein prescribed and enjoined to be done; and if such person, after a copy of the rule or order of the said court, revoking or annulling his or her license, shall have been served on him or her, shall, notwithstanding, continue to sell or retail any vinous, spirituous, or strong liquors, then such person shall be liable to the like penalties as for selling without license.

Courts empowered to revoke licenses in certain cases.

21. Repealed and supplied by act June 1, 1820.

22. *And be it enacted*, That if any inn-holder or tavern-keeper, shall sell any vinous, spirituous, or strong liquors, to any apprentice, servant, or slave, knowing, or having reason to suspect or believe him or her to be such, without the consent of his or her master or mistress, such inn-holder or tavern-keeper, shall, for every offence, forfeit the sum of four dollars, to be recovered by action of debt, with costs, by the master or mistress of such apprentice, servant or slave, in any court of record, having cognizance thereof.

Tavern-keepers selling liquors to apprentices, servants or slaves, to forfeit four dollars.

23. *And be it enacted*, That if any inn-holder, tavern-keeper, or other person or persons, shall take or receive, directly or indirectly, from any apprentice, servant, or slave, any clothing, or other goods, chattels, wares or merchandise, in payment for any vinous, spirituous, or strong liquors, or in pawn or pledge to secure such payment, then he, she or they, so offending, shall forfeit and pay unto the master or mistress of such apprentice, servant, or slave, treble the value of all such clothing, or other goods, chattels, wares or merchandise, which he, she or they shall have so taken or received as aforesaid, to be recovered by such master or mistress, his or her executors or administrators, by action of debt, or on the case, with costs, in any court having cognizance of the same.

Penalty on tavern-keepers and others receiving goods from apprentices, servants, or slaves, in payment for liquors.

24. *And be it enacted*, That if any inn-holder and tavern-keeper shall trust or give credit to any person or persons, above

Tavern-keepers trusting

1797.

persons more than two dollars, to lose the debt.

the sum of two dollars, for vinous, spirituous, or strong liquors, or other tavern expenses, he, she or they, so trusting or giving credit to any person or persons as aforesaid, shall lose the debt, and be for ever disabled from suing for, or recovering the same, or any part thereof; and if any inn-holder and tavern-keeper shall sue for any such debt, above the said sum of two dollars, the person or persons sued, shall and may plead this act in bar; and if the plaintiff in such suit shall become nonsuit, or a verdict or judgment shall be given for the defendant, then such plaintiff shall pay double costs.

Notes, bills, or other securities, taken for such debt, to be void.

25. *And be it enacted*, That if any inn-holder and tavern-keeper shall take or get from any person or persons, trusted as aforesaid, any note, bill, bond, or other security, for any sum above two dollars, for any vinous, spirituous, or strong liquors, sold and drank in or at his or her house, under pretence that it is for victuals, or any other thing, whereby to evade this act, then every such note, bill, bond, or other security, shall be void; and the defendant or defendants may plead this act in bar to any action or suit to be brought thereon.

But this act not to extend to lodgers, or travellers not residing in the township.

26. *Provided always, and be it further enacted*, That nothing in this act shall be construed to debar any inn-holder and tavern-keeper from taking, receiving, or recovering any sum or sums of money which shall become due and owing to him or her, from persons who may be lodgers in his or her house, or from travellers not residing in the town, city, precinct or township where such inn and tavern is kept.

Mode of proceeding upon recognizances given by tavern-keepers when forfeited.

27. *And be it enacted*, That it shall be the duty of every justice of the peace, on view, complaint, or information, that any inn-holder and tavern-keeper hath committed any act or thing, or hath neglected, omitted, or refused to observe or do any act or thing, whereby in the judgment of such justice the recognizance aforesaid may be forfeited, or the condition thereof broken, to require, by summons under his hand and seal, such inn-holder and tavern-keeper to appear at the next court of general quarter-sessions of the peace, then and there to answer to the matter of such complaint or information; and also to bind the complainant, or any other person, in recognizance to appear and give evidence; and it shall be the duty of the said court to direct the jury, which shall there attend for the trial of traverses, or some other jury of good and lawful men to be then and there empaneled by the sheriff, to inquire thereof, and if the jury find that such inn-holder and tavern-keeper hath done, or hath neglected, omitted or refused to observe or do any act or thing whereby the said recognizance is broken, such act being specified in such complaint or information, the said court shall adjudge him or her guilty; which verdict and adjudication shall be final; and thereupon the said recognizance shall be forfeited, judgment final, with costs, shall be given against the recognizers, as in case of debt, and execution shall issue thereon accordingly; and further, that the sheriff shall pay the money, which he shall have received by virtue of such execution, into the treasury of this state, at the time and in the manner mentioned and prescribed

The money thereon arising to be paid to the treasurer.

in the fifth section of the act, entitled "An act for the more easy and expeditious recovery of penalties on forfeited recognizances, and for appropriating the moneys arising from the same, and from fines and amercements," passed the eighteenth day of March, in the year of our Lord, one thousand seven hundred and ninety-five, and shall be entitled to the fees, and subject to the penalties and actions in the said section prescribed. *Provided*, That the said court, at the request of the attorney-general, or attorney prosecuting the pleas in his absence, or of the party complained of, or either of his or her sureties, may, on reasonable cause shewn, adjourn the trial of such complaint or information to the then next sessions or term.

1797.

28. *And be it enacted*, That if any inn-holder and tavern-keeper shall be convicted of being drunk in his own inn and tavern, besides the penalty consequent on the crime of drunkenness, his license shall immediately thereupon become void.

The license of a tavern-keeper, convicted of drunkenness, in his own house, to be void.

29. *And be it enacted*, That this act shall not be construed to prevent any inn-holder and tavern-keeper, who, before the passing thereof, was licensed according to law, from acting as such during the term for which his or her license shall have been granted; subject nevertheless to the like conditions, duties, pains and penalties as if this act had not been made.

Not to affect taverns now under license.

30. *Provided always, and be it further enacted*, That nothing in this act contained shall be taken, deemed or construed to alter, change, or in any manner affect the rights, powers, privileges and immunities given and granted by law to any city or town corporate in this state, relative to the licensing of inns and taverns within their respective cities or towns corporate, such cities or towns corporate nevertheless conforming to the directions, and being subject to the limitations, restrictions and provisions herein contained and given to the courts of general quarter-sessions of the peace in the several counties of the state, except that the recommendation for a license in such cities or towns corporate shall be signed by at least ten reputable freeholders residing therein.

Not to affect cities and towns corporate.

31. *And be it enacted*, That all laws heretofore made for regulating taverns, ordinaries, inn-keepers and retailers of strong liquors, and all clauses and parts of laws respecting them, or any of them, or coming within the purview of this act, be, and the same are hereby repealed.

Former laws repealed.

32. *And be it enacted*, That this act shall not be in force until the first day of June next.

See act June 1, 1820.

AN ACT for dividing the township of Newton, in the county of **Sussex**, into two separate townships. PAT. 240.

Passed the 1st of March, 1797.

WHEREAS a number of the inhabitants of the township of **Newton**, in the county of **Sussex**, by their petition, have set Preamble.

LAWS OF NEW-JERSEY.

1797.

forth, that they have long labored under many and great difficulties, by reason of the large extent of the said township; for remedy WHEREOF—

Division line.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Newton, lying to the north of the following line, to wit; beginning at the division line between the townships of Newton and Sandiston, where a true line will strike the south end of the Long-Pond, near the said division line, and the outlet of the White-Pond, near the division line between Newton and Hardiston, and so continue to the line of Hardiston, shall be, and the same is hereby set off from the township of Newton, and the same is hereby established a separate township, to be called by the name of, "Frankford."

PAT. 241.

AN ACT declaring when the death of persons absenting themselves shall be presumed.*

Passed the 7th of March, 1797.

Persons, absent, &c., for seven years together, presumed to be dead.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That any person who shall remain beyond sea, or absent himself or herself from this state, or conceal himself or herself in this state, for seven years successively, shall be presumed to be dead, in any case wherein his or her death shall come in question, unless proof be made, that he or she were alive within that time; but an estate recovered in any such case, if in a subsequent action or suit, the person, so presumed to be dead, shall be proved to be living, shall be restored to him or her, who shall have been evicted; and he or she may also demand and recover the rents and profits of the estate, during such time as he or she shall have been deprived thereof, with costs of suit.

PAT. 242.

AN ACT concerning stray cattle, horses and sheep.

Passed the 7th of March, 1797.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That any person or persons, who, at any time hereafter, the first day of November and the first day of April, in any year, shall discover any stray neat cattle, horses or sheep, upon his, her or their improved lands, shall forthwith deliver to the clerk of the city, township or precinct, where such estray or estrays shall happen to be found, a note, in writing, containing their several ages, colors and marks, natural and artificial, as near as may be, together with his, her or their name or names, and place or places of abode; which said clerk shall, on the receipt

of every such note, forthwith make a full entry thereof at large, in a book provided for that purpose; for which entry, so made, the said clerk shall have twenty-five cents, by the head, for all neat cattle and horses, and six cents for each sheep, to be paid by the person or persons delivering such note; and the person or persons delivering such note shall have, for so doing, twenty-five cents, by the head, for all neat cattle and horses, and six cents for each sheep described in such note; and such person or persons may detain such stray or estrays until the owner or owners thereof shall appear and pay the fees, as well for delivering the said note as making the said entry, together with all reasonable charges for keeping the said stray or estrays, to be adjudged by any one indifferent freeholder, chosen by the parties, upon which the said stray or estrays shall be delivered to the said owner or owners.

1797.

Town-clerk to
make an entry
of estrays, and
fees therefor.

2. *And be it enacted*, That if no owner or owners of such stray or estrays shall appear to claim the same, on or before the first day of May next after the making such entry as aforesaid, or if the said owner or owners shall refuse or neglect to pay the fees aforesaid and reasonable charges for the keeping, to be adjudged of as aforesaid, then the possessor of such stray or estrays shall, within the space of five days, give notice to one of the overseers of the poor of the said city, township or precinct where the said stray or estrays was or were found, who is hereby required, within five days after such notice given, to set up advertisements in at least three of the most public places of the said city, township or precinct, appointing the time and place of the sale of such stray or estrays at public vendue, not less than five nor more than ten days after setting up such advertisements, and shall, at the same time and place, proceed to sell the said stray or estrays, at public vendue, to the highest bidder, and out of the moneys arising from such sale, the said overseer shall pay the possessor of such stray or estrays the fees of giving notice of and entering the said stray or estrays as aforesaid, and such charges for keeping the same as shall be adjudged by any indifferent freeholder, chosen by the overseer and the possessor, to be just and reasonable, whose determination shall be final; and the said overseer shall and may retain and keep, to his own use, thirty-three cents in the pound, for his trouble in advertising and attending the said sale, and for defraying the charges and expenses thereof, and the remainder of the moneys arising from such sale shall be paid to the owner or owners of such stray or estrays, provided he, she or they shall appear, demand the same, and make good his, her or their title thereto, within one year after the said sale; but if no owner or owners shall appear and make demand of the said overplus moneys, and shew his, her or their right to the same, within the said year, then the said owner or owners shall for ever after be barred from recovering or having the said moneys, or any part thereof, and the said moneys shall thereupon be applied, by the said overseer, to the use of the poor of the city, township or precinct, where such stray or estrays shall have been sold as aforesaid; and the said overseer shall be accountable for the said over-

Estrays to be
sold;

and moneys
arising from
the sale, how
applied.

1797.

plus moneys to his successor in office, in the manner prescribed by law; and the said overseer is hereby authorized and required to give a receipt to the purchaser or purchasers of such stray or estrays, for any sum or sums which the same shall have been sold for, which receipt shall be a sufficient voucher for the payment of the same, and shall vest in the said purchaser or purchasers a lawful right and title to such stray or estrays, without his, her or their being any further accountable to the owner or owners, or any other person whatsoever.

Penalty for
concealing
estrays.

3. *And be it enacted*, That any person or persons, who shall, at any time hereafter between the first day of November and the first day of April, in any year, have any such stray neat cattle, horses or sheep as aforesaid upon his, her or their improved lands, or in his, her or their possession, and do not acquaint the owner or owners therewith, or give the notice prescribed by this act within the space of twenty days after discovery or knowledge thereof, such person or persons, so offending, shall not only lose any demand he, she or they might otherwise have had for keeping and feeding such stray or estrays, but shall also forfeit to the owner or owners thereof, for every such offence, the sum of six dollars for each and every such stray cattle or horse, and fifty cents for every sheep, to be recovered by action of debt before any one justice of the peace, with costs of suit; and if the said owner or owners shall not appear and prosecute the same within twenty days after the first day of April aforesaid, then the overseers of the poor of the city, township or precinct, where the said stray or estrays shall have been so concealed, upon notice thereof, are hereby required to prosecute the same to effect, and to apply the said penalty or penalties, when recovered, to the use of the poor.

Clerk's books
to be open and
free.

4. *And be it enacted*, That the books, so to be kept by the respective clerks of each city, township and precinct, shall always by them be kept open and free for any person or persons, who at any time may have occasion to search therein, for any such estrays, and for which search, such clerk shall not ask or receive any fee or reward, under the penalty of three dollars, to be recovered by the party aggrieved in manner aforesaid, with costs of suit.

Former law
repealed.

5. *And be it enacted*, That the act, entitled "An act the better to prevent the concealing of stray cattle, horses and sheep," passed the nineteenth day of January, in the year of our Lord, seventeen hundred and forty-seven-eight, and all other acts, containing any thing coming within the purview of this act, shall be, and the same are hereby repealed.

AN ACT for the relief of creditors against heirs and devisees.

1797.

Passed the 7th of March, 1797.

PAT. 243.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That all and every creditor and creditors, whether by simple contract or specialty, and whether the heirs are mentioned therein or not, shall and may, by virtue of this act, have and maintain his, her, and their action and actions, against the heir and heirs at law of any debtor, who hath already died, or shall hereafter die intestate, seized of any messuages, lands, tenements or hereditaments, and against the heir and heirs at law, and devisee and devisees of such debtor, in case such debtor made any last will and testament; and such heir and heirs, devisee and devisees, shall be liable and chargeable for a false plea by him, her or them pleaded, in the same manner as any heir should have been for any false plea, by him pleaded, in any action of debt upon specialty, or for not confessing the lands or tenements, to him descended; and, moreover, all such creditors shall be preferred as in actions against executors and administrators.

Creditors may maintain actions on specialties or simple contracts, against heirs and devisees.

2. *And be it enacted,* That in all cases, where any heir or heirs at law is, are, or shall be liable to pay the debt of his, her or their ancestor, in regard of any lands, tenements or hereditaments, descending to him, her, or them, and shall sell, alien, or make over the same, before any action brought, or process sued out against him, her or them, such heir and heirs at law shall be answerable for such debt, to the value of the said lands, tenements or hereditaments, so by him, her or them sold, aliened or made over; in which cases, all creditors shall be preferred, as in actions against executors and administrators; and further, such execution shall be taken out upon any judgment, so obtained, against such heir or heirs, to the value of the said lands, tenements or hereditaments, as if the same were his, her, or their own proper debt; but the lands, tenements and hereditaments, which were bona fide aliened before the action brought, shall not be liable to such execution.

If the heir alien land descended to him, before action brought, he shall be liable to the value of such land.

3. *Provided always, and be it further enacted,* That where any action shall be brought against any heir or heirs, such heir or heirs may plead *riens per discent* at the time of the original writ brought, or the bill filed against him, her or them; and the plaintiff in such action may reply, that such heir or heirs had lands, tenements or hereditaments from his, her, or their ancestor before the original writ brought, or bill filed; and if, on issue joined thereupon, it be found for the plaintiff, the jury shall inquire of the value of the lands, tenements or hereditaments so descended, upon which judgment shall be given and execution awarded as aforesaid; but if judgment be given against such heir or heirs, by confession of the action, without confessing the assets descended, or upon demurrer, or *nihil dicit*, it shall be for the debt and damages, without any writ to inquire of the lands, tenements and hereditaments so descended.

In such action, the heir may plead *riens per discent*.

And if, on issue joined thereon, the jury find for the plaintiff, they shall inquire of the value of the lands descended, but if judgment be given of the heir on demurrer, or *nihil dicit*, it shall be for the debt and damages.

1797.

Devises made
liable in the
same manner
as heirs.

4. *Provided also, and be it further enacted*, That all and every devisee and devisees, made liable by this act, shall be liable and chargeable in the same manner as the heir and heirs at law by force of this act, notwithstanding the lands, tenements and hereditaments to him, her or them devised shall be aliened before the action brought, and shall be liable to the like judgments and executions as the heir and heirs at law.

PAT. 244.

AN ACT to authorize the recording certain deeds for lands lying in the river Delaware, heretofore acknowledged or proved according to the laws of Pennsylvania.

Passed the 7th of March, 1797.

Deeds for certain islands and real estates, in the river Delaware; which have been acknowledged or proved, according to the laws of Pennsylvania, to be recorded in this state.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all deeds, evidences, and conveyances of any island, or part of any island, or other real estate, lying in the river Delaware, and by laws of the commonwealth of Pennsylvania, and of this state, settling the jurisdiction of the said river and islands within the same annexed to this state, which at any time heretofore have been duly acknowledged or proved according to the laws of Pennsylvania, shall be deemed and taken to be sufficiently acknowledged or proved, to authorize the same to be recorded in any book or office, which is or shall be kept for the purpose by any person, who is or hereafter shall be lawfully empowered to record deeds or conveyances of land within this state.

Deeds, so acknowledged or proved, and certified copies of them from the records, to be admitted in evidence.

2. *And be it enacted*, That all such deeds, evidences and conveyances, acknowledged or proved as aforesaid, and all copies thereof, taken from any book, where the same is so recorded, and certified as a true copy by any such person lawfully empowered to record deeds and conveyances of land in this state, and proved in court to be a true copy by some person, who has compared the same with the record of the said deeds, and the acknowledgment or proofs thereof made as aforesaid, shall be as good and sufficient evidence in any court of record in this state, as if the same had been duly acknowledged according to the laws thereof.

PAT. 245.

AN ACT declaring the jurisdiction of the several counties in this state, which are divided by rivers, creeks, bays, highways or roads.

Passed the 7th of March, 1797.

Where reciprocal jurisdiction shall be had.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That where any two counties are, or hereafter shall be, divided by rivers, creeks, bays, highways or roads, within this state, the jurisdiction of each respective county, bounding on such rivers, creeks, bays, highways or roads, shall be reciprocal; and all ar-

rests, by virtue of any legal process, or service of any legal process, made on the same, or on any bridge over any such rivers, creeks or bays, are hereby declared to be as good and effectual, as if such arrests or service had been made within the body of either of the said counties.

1797.

2. *And be it enacted*, That where any treason, murder or other offence hath been or hereafter shall be committed on any of the rivers, creeks, bays, highways or roads, which divide or hereafter shall divide any of the counties within this state, or on any of the bridges over any such rivers, creeks or bays, such offence or offences, whether of principal or accessory, shall be inquired of and tried by a jury of that county where the offender or offenders last resided; and in case such offender or offenders, whether principal or accessory, be non-residents of either of the adjacent counties, such offence or offences, whether of principal or accessory, shall be inquired of and tried by a jury of either of the said counties, and such inquiry and trial, and all other the proceedings thereon had, shall be as good and effectual as if the said offence or offences, as well principal as accessory, had been committed, done or perpetrated within the body of such county, where the said inquiry, trial and proceedings shall be had.

Where offences shall be tried.

3. *And be it enacted*, That the act, entitled "An act to extend the jurisdiction of the several counties in this colony, which are divided by rivers, creeks and bays," passed the twenty-first day of December, in the year of our Lord, one thousand seven hundred and seventy-one, shall be, and the same is hereby repealed.

Former law repealed.

AN ACT directing bills of exceptions to be sealed.

PAT. 245.

Passed the 7th of March, 1797.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That when any person, who is or shall be impleaded before any court, and in any cause, where a writ of error lies to a higher court, shall allege an exception, praying, that the justice or justices will allow it, and he or they will not allow it, if he, who alleged the exception, instantly writes the same, and requires, that the said justice or justices will put thereto his or their seal or seals, in testimony thereof, such justice or justices, or the greater part of them present, shall so do; and if such higher court, upon the cause being removed before them, do not find the same exception in the record, and the plaintiff shew the exception, written and sealed as aforesaid, the said justice or justices shall be commanded to appear at a certain day, either to confess or deny his or their seal or seals; and if such justice or justices cannot deny his or their seal or seals, the said higher court shall proceed to judgment according to the same exception, as it ought to be allowed or disallowed.

Bills of exception to be sealed.

The justice sealing the same to confess or deny his seal.

1797.

AN ACT relating to hawkers, pedlers, and petty chapmen.

Passed the 7th of March, 1797.

No person to be a pedler without a license from the governor in pursuance of a recommendation from the court of quarter-sessions.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That no person shall follow, use or exercise the business or calling of a hawker, pedler or petty chapman, or shall go or travel from town to town, or to other men's houses, either on foot or with horse, mule, or other beast, bearing or drawing burden, or otherwise, (except as hereinafter is excepted,) carrying or selling, or exposing to sale, any goods, wares or merchandise, within this state, until such person shall have obtained a recommendation from the court of general quarter-sessions of the peace of the county, where he or she dwells, certifying their opinion of the honesty of the person recommended, and that he or she resides in this state, and intends to travel with one or more horse or horses, or other beast of burden, or on foot, and thereupon shall have obtained a license from the governor, or chief executive magistrate of this state, and shall have given bond, in the clerk's office of the said court, to the said state, with one surety at least, being a freeholder in the said county, in any sum, according to the discretion of the said court, not less than sixty nor more than one hundred and fifty dollars, conditioned, that such person shall be of good behaviour, during the continuance of the said license, and shall duly satisfy and pay all such taxes and duties as shall be legally laid and imposed upon him or her, within the county, where he or she shall obtain the said recommendation, and shall well and truly observe the directions and perform the matters and things prescribed by law, respecting hawkers, pedlers and petty chapmen; and further, shall have taken a certificate of the said clerk of his or her having given bond as aforesaid.

Fees to be paid to the governor and clerk.

2. *And be it enacted,* That every person, who shall obtain a license to travel with a horse or horses, or other beasts of burden, for the purpose of selling goods, wares and merchandise, shall pay to the governor, or chief executive magistrate, three dollars and fifty cents; and every person, who shall obtain a license to travel on foot, for the purpose aforesaid, shall pay to the governor, or chief executive magistrate, two dollars, and every person licensed as aforesaid shall pay to the clerk for the said bond and certificate, fifty cents.

Penalty on any person peddling, not being qualified.

3. *And be it enacted,* That if any person, not being qualified as directed in and by the first section of this act, shall be found hawking, peddling or travelling from house to house, or place to place, in this state, to sell goods, wares or merchandise, as a hawker, pedler or petty chapman, he or she, so offending, shall, for every offence, forfeit and pay the sum of thirty dollars, one moiety whereof to this state, and the other moiety to the person who shall sue for the same, to be recovered, with costs, by action of debt, in any court of record having cognizance thereof; and further, if any person, so hawking, peddling or

trading as aforesaid, shall, upon demand made by any justice of the peace, constable, or other person, being a freeholder, in any county in this state, where he or she shall so trade, hawk or peddle, refuse to produce and shew unto such justice, constable, or other person, his or her license for so hawking, peddling or trading, to be granted as aforesaid, and certificate of his having given bond as aforesaid; then such person, so offending, shall forfeit and pay for every offence, in not producing and shewing such license, the sum of five dollars, and for every offence, in not producing and shewing such certificate, the sum of three dollars, to be recovered and applied in the manner above directed.

1797.

Penalty on pedlers refusing to show their license or certificate.

4. *And be it enacted*, That if any person shall forge or counterfeit any license, or travel with such forged or counterfeited license, for the purposes aforesaid; such person shall forfeit the sum of one hundred and fifty dollars, to be recovered and applied as aforesaid, and shall also be liable to be punished for forgery.

Penalty for forging a license.

5. *And be it enacted*, That if any person shall lend or let out to hire any license to him or her granted as aforesaid, the person lending or letting out to hire such license, and the person trading under color of the same, shall each of them forfeit the sum of one hundred dollars, to be recovered and applied in the manner herein before prescribed.

Penalty on a pedler lending or letting out his license.

6. *And be it enacted*, That no person, to whom a license as aforesaid shall be granted, shall use or exercise the same, or sell or expose to sale, any goods, wares or merchandise, by virtue or color thereof, (except as hereinafter is excepted,) until such person shall have first paid to the overseer or overseers of the poor of every precinct or township, where he or she intends to expose to sale any goods, wares or merchandise, the sum or sums of money following; that is to say,

What sums pedlers are to pay annually to overseers of the poor.

Every person travelling with a waggon, cart, or other carriage, two dollars.

Every person travelling with a horse, mule, or other beast of burden, one dollar and fifty cents.

Every person travelling on foot, sixty cents.

The said sums to be paid yearly and every year.

7. *And be it enacted*, That it shall be the duty of the said overseers for every precinct and township, where any person, to whom a license shall be granted as aforesaid, shall travel for the purpose aforesaid, to receive every year from such person the sum of money hereby directed to be annually paid on such license, and give a receipt for the same, which year shall commence at the time of such person's first coming to and vending goods, wares and merchandise in such precinct or township, and to enter the said time and sum in a book to be kept for that purpose, which book the said overseers shall deliver to their successors in office; and if the said overseers or any of them, shall neglect, omit, or refuse to do the matters and things herein prescribed and enjoined upon them, then he or they so offending,

The duty of the overseers.

Penalty for neglect of duty.

1797.

shall for every offence, forfeit and pay the sum of five dollars, to be recovered by action of debt, with costs, by any person, who shall sue for the same, in any court of record having cognizance thereof.

Penalty on
pedlers going
without a re-
ceipt.

8. *And be it enacted*, That if any such licensed person, not having obtained a receipt as aforesaid, shall be found hawking, peddling or travelling from house to house, or place to place, to sell goods, wares or merchandise, as a hawker, pedler or petty chapman, then he or she so offending, if travelling with a wagon, cart or other carriage, shall forfeit the sum of six dollars, and if travelling with horse, mule or other beast of burden, shall forfeit the sum of five dollars, and if travelling on foot, shall forfeit the sum of three dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same, in any court of record having cognizance thereof.

Penalty on
pedlers refus-
ing to shew re-
ceipts.

9. *And be it enacted*, That if such person so trading shall, upon demand made by any person in any precinct or township, where he or she shall so trade, refuse to produce and shew to the said person, his or her receipt for the money ordered to be paid to the said overseer or overseers as aforesaid, then the said person, so offending, shall forfeit, for every offence, the sum of five dollars, to be recovered and applied in the manner prescribed in and by the section next preceding.

This act not to
extend to
goods sold in
public market,
or of the
growth of this
country.

10. *Provided always, and be it further enacted*, That this act shall not be construed to debar or prohibit any person from selling or exposing to sale any goods, wares or merchandise in any public market within this state, or to debar or prohibit any person from carrying about from town to town, or house to house, and selling or exposing to sale any goods, wares or merchandise of the growth, produce or manufacture of this state, or of any other of the United States; but that such person may do therein, as he or she lawfully might have done before the making of this act.

On a dispute
respecting the
growth, &c.,
the vender to
prove the
same.

11. *And be it enacted*, That if any dispute shall arise respecting the place of the growth, product, or manufacture of the said goods, wares or merchandise, the person, carrying about or exposing the same to sale in manner aforesaid, shall prove, by his or her own oath or affirmation, or otherwise, before any justice of the peace of the county, where he or she shall carry about or offer the same to sale, whether such goods, wares or merchandise, be of the growth, product, or manufacture of this state, or of any other of the United States; and if such person shall refuse to make such proof as aforesaid, he or she shall thereupon be fined by the said justice, in the sum of five dollars, to be applied to the use of the said county, and in case of non-payment thereof, he or she shall be committed to the goal of the said county.

Suits for of-
fences against
this act to be
brought within
three months.

12. *And be it enacted*, That every suit, to be brought for any offence against this act, shall be instituted within three calendar months after the offence shall have been committed.

13. *And be it enacted*, That this act shall not be construed to

invalidate or affect any license, which has been legally granted, antecedent to the passing hereof, to any hawker, pedler or petty chapman, for the purpose of selling or exposing to sale, any goods, wares or merchandise, in this state; and further, that every such hawker, pedler or petty chapman, shall observe the directions, do the duties, perform the things, and pay the money, or, on failure thereof, be subject to the penalties in this act prescribed.

1797.

This act not to affect licenses antecedently granted.

2. *And be it enacted*, That the act, entitled "An act for the preventing of lotteries, and for regulating of pedlers," passed the eighth day of July, in the year of our Lord, one thousand seven hundred and thirty; and the act, entitled "An act to lay certain taxes on hawkers, pedlers or petty chapmen, within this province," passed the thirty-first day of July, in the year of our Lord, one thousand seven hundred and forty, and every clause and part of any act, containing any thing within the purview of this act, be, and they are hereby repealed.

Former acts repealed.

AN ACT concerning the trial of murder, in cases, where the stroke and death happen in different counties, and in cases, where either the stroke or death only happens within this state.

PAT. 248.

Passed the 7th of March, 1797.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That where any person hereafter shall be feloniously stricken or poisoned in one county, and shall die of the same stroke or poisoning in another county, then an indictment thereof found by jurors of the county, where the death shall happen, whether it shall be found before the coroner upon the view of such dead body, or before the justices of the peace, or other justices or commissioners, who shall have authority to inquire of such offences, shall be as good and effectual in the law, as if the stroke or poisoning had been given, committed or done in the same county, where the party shall die, or where such indictment shall be found; and further, that the justices of oyer and terminer and of general goal delivery in the same county, where such indictment shall be taken, and the justices of the supreme court, where such indictment shall be taken or removed before them, shall and may proceed upon the same in all points, as they might or could do in case such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, had been committed and happened all in one and the same county.

Where a person dies in one county, of a stroke or poison, given in another, the indictment may be found in the former.

2. *And be it enacted*, That where any murder or other offence shall be committed and done in one county, and other person or persons shall be accessory in any manner to any such murder, or other offence, in any other county, then an indictment, found and taken against such accessory or accessaries, upon the circumstance of such matter, before the justices of the peace, or other justices or commissioners, having authority to inquire of

If the offence of the principal be committed in one county, and the offence of the accessory in another, the indictment

1797.

against the accessory may be found in the latter.

such offences, in the county, where the offence of accessory in any manner or wise shall be committed or done, shall be as good and effectual in the law, as if the said principal offence had been committed or done within the same county, where the same indictment against such accessory or accessories shall be found; and the justices of oyer and terminer and of general gaol delivery, or any three of them, of or in such county, where the offence of any such accessory shall be committed and done, upon suit to them made, shall write to the clerk or keeper of the records, where such principal shall be attained or convicted, to certify them, whether such principal be attained or convicted, or otherwise discharged of such principal offence, who, upon such writing to them or any of them directed, shall make sufficient certificate, in writing, under his or their seal or seals, to the said justices, whether such principal be attained, convicted, or otherwise discharged of such offence or not; and after that the said clerk or keeper of the records do certify, that such principal is attained, convicted, or otherwise discharged of such offence by the law, then the said justices of oyer and terminer or of general gaol delivery, or other justices thereunto authorized, shall proceed against any such accessory or accessories, in the county they or either of them so became accessory, in such manner and form as if both the principal offence and accessory had been committed and done in the said county, where the said offence of accessory was or shall be committed or done; and further, that every such accessory, and other offenders aforesaid, shall answer upon their arraignments, and have the like defences, advantages and exceptions, and shall receive the like trial, judgment, order and execution, and suffer such forfeitures, pains and penalties, as if both the principal offence and accessory had been committed and done in one and the same county.

If a person die in this state of a stroke or poison given out of it, or if he die out of this state of a stroke or poison given in it, in what county the indictment shall be found against the principal and accessory.

3. *And be it enacted*, That where any person shall be feloniously stricken or poisoned upon the sea, or at any place out of the jurisdiction of this state, and shall die of the same stroke or poisoning within the jurisdiction of this state, or where any person shall be feloniously stricken or poisoned within the jurisdiction of this state, and shall die of such stroke or poisoning upon the sea, or at any place out of the jurisdiction of this state, in either of the said cases, an indictment thereof, found by jurors of the county within the jurisdiction of this state, in which such death, stroke or poisoning shall happen respectively as aforesaid, whether it shall be found before any coroner upon view of such dead body, or before the justices of the peace, or other justices or commissioners, who shall have authority to inquire of murders, shall be as good and effectual in the law, as well against the principal or principals in any such murder, as against the accessory or accessories thereto, as if such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offence of such accessory or accessories had happened in the same county, where such indictments shall be found; and that the justices of oyer and terminer and of general gaol delivery in the same county, where such indictment shall be found, and also the

supreme court, in case such indictment shall be taken or removed before them, shall and may proceed upon the same in all points, as well against the principal or principals in any such murder, as the accessory or accessories thereto, as they might or could do in case such felonious stroke and death thereby ensuing; or poisoning and death thereby ensuing, and the offence of such accessory or accessories had happened in the same county, where such indictment shall be found; and that every such offender, as well principal as accessory, shall answer upon their arraignments, and have the like defences, advantages and exceptions, and shall receive the like trial, judgment, order and execution, and suffer such forfeitures, pains and penalties, as they ought to do if such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offence of such accessory or accessories had happened in the same county, where such indictment shall be found.

1797.

AN ACT for the more equal representation of the counties of Hunterdon, Burlington, Sussex, Cumberland and Cape-May, in the General Assembly of this state.

PAT. 240.

Passed the 8th of March, 1797.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the counties of Hunterdon, Burlington, Sussex, Cumberland and Cape-May, shall, on the second Tuesday in October next, and on the second Tuesday in October annually thereafter, choose the following number of persons to represent them in the general assembly of this state, and no more; to wit, the county of Hunterdon four; the county of Burlington four; the county of Sussex four; the county of Cumberland two, and the county of Cape-May one; any law, usage or custom to the contrary thereof notwithstanding.

AN ACT to compel joint tenants and tenants in common to make partition, and for the more easy obtaining partition of lands in coparcenary, joint tenancy, and tenancy in common.

PAT. 250.

Passed the 9th of March, 1797.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all joint tenants and tenants in common, that now be, or hereafter shall be, of any estate or estates of inheritance, in their own right or in right of their wives, of any lands, tenements or hereditaments within this state, shall and may be compelled, by virtue of this act, to make partition between them of all such lands, tenements or hereditaments, as they now hold, or hereafter shall hold, as joint tenants, or tenants in common, by writ of

Joint tenants and tenants in common, may be compelled to make partition of lands;

1797.

and shall have aid of one another.

Joint tenants and tenants in common for life or years compellable to make partition.

But such partition shall affect only the parties and their representatives.

If the tenant shall not appear in fifteen days after service of process the court may examine demandant's title, give judgment, and award a writ to make partition; upon which, after its return, judgment final shall be entered, and be conclusive.

partition, in that case to be devised in the court of chancery, in like manner and form as coparceners by the common law have been and ~~be~~ compelled to do, and the same writ to be pursued at the common law. *Provided always*, That every of the said joint tenants, or tenants in common, and his, her and their heirs, after such partition made, shall and may have aid of the other, or of his, her or their heirs, to the intent to dereign the warranty paramount, and to recover for the rate as is used between coparceners after partition made, by the order of the common law.

2. *And be it enacted*, That all joint tenants, and tenants in common, and every of them, who now hold, or hereafter shall hold, jointly or in common, for term of life or lives, year or years, and joint tenants, or tenants in common, where one or some of them have or shall have estate or estates for term of life or lives, or year or years, with the other or others, that have or shall have estate or estates of inheritance or freehold in any lands, tenements or hereditaments, shall and may be compelled from henceforth, by writ of partition, out of the court of chancery, upon his, her or their case or cases, and to be pursued at the common law, to make severance and partition of all such lands, tenements or hereditaments, which they hold jointly or in common, for term of life or lives, year or years, or where one or some of them hold jointly or in common, for term of life or lives, year or years, with another or others, that have an estate or estates of inheritance or freehold. *Provided always*, That no such partition or severance hereafter to be made by force of this clause of this act be, nor shall be prejudicial or hurtful to any person or persons, their heirs or successors, other than such as be parties unto the said partition, their executors or assigns.

3. *And be it enacted*, That after process of pone, or attachment, returned upon any writ of partition, between coparceners at the common law or custom, or between joint tenants, or tenants in common, by virtue of this act, affidavit being made, by any credible person, of due notice given of the said writ of partition to the tenant or tenants to the action, and a copy thereof left with the occupier, or tenant or tenants, or if they cannot be found, to the wife, son or daughter, being of the age of twenty-one years or upwards, of the tenant or tenants, or to the tenant in actual possession, by virtue of any estate of freehold, or for term of year or years, or uncertain interest, or at will, of the lands, tenements or hereditaments, whereof the partition is demanded, (unless the said tenant in actual possession be demandant in the action,) at least twenty days before the day of the return of the said pone or attachment, if the tenant or tenants to such writ, or any of them, or the true tenant to the messuages, lands, tenements or hereditaments, as aforesaid, shall not in such case, within fifteen days after the return of such writ of pone or attachment, cause an appearance to be entered in such court, where such writ of pone or attachment shall be returnable, then, in default of such appearance, the demandant having entered his declaration, the court may proceed to examine the demandant's title and quantity of his part and purpart, and accordingly as they shall find his right, part

and purpart to be, they shall, for so much, give judgment by default, and award a writ to make partition, whereby such proportion, part and purpart may be set out severally; which writ being executed after eight days notice given to the occupier or tenant or tenants of the premises, and returned, and thereupon final judgment entered, the same shall be good and conclude all persons whatsoever, after notice as aforesaid, whatever right or title they have, or may at any time claim to have in any of the messuages, lands, tenements or hereditaments mentioned in the said judgment and writ of partition, although all persons concerned are not named in any of the proceedings, nor the title of the tenants truly set forth. *Provided always*, That if such tenant or person concerned, or either of them, against whom, or his, her or their right or title, such judgment, by default, is given, shall, within the space of one year after the first judgment entered, or in case of infancy, coverture, insane memory, or absence out of the state, within one year after his, her or their return, or the determination of such inability, apply to the court, by motion, where such judgment is entered, and shew good and probable matter in bar of such partition, or that the demandant hath not title to so much as he hath recovered, then, and in such case, the court may suspend or set aside such judgment, and admit the tenant and tenants to appear and plead, and the cause shall proceed according to due course of law, as if no such judgment had been given; and if the court, upon hearing thereof, shall adjudge for the first demandant, then the said first judgment shall stand confirmed, and be good against all persons whatsoever, except such other persons as shall be absent or disabled as aforesaid; and the person or persons so applying shall be awarded thereupon to pay costs; or if, within such time or times aforesaid, the tenants or persons concerned, admitting the demandant's title, parts and purparts, shall shew to the court any inequality in the partition, the court may award a new partition to be made in the presence of all parties concerned, if they will appear, notwithstanding the return and filing upon record of the former; which said second partition returned and filed, shall be good and firm for ever against all persons whatsoever, except as before excepted.

4. *And be it enacted*, That no plea in abatement shall be admitted or received in any suit for partition, nor shall the same be abated by reason of the death of any tenant.

5. *And be it enacted*, That when the high-sheriff, by reason of distance, infirmity, or any other hindrance, cannot conveniently be present at the execution of any judgment in partition, in such case, the under-sheriff, in the presence of two justices of the peace of the county, where the lands, tenements or hereditaments to be divided do lie, shall and may proceed to the execution of any writ of partition, by inquisition in due form of law, as if the high-sheriff were then personally present; and the high-sheriff thereupon shall, and he is hereby enabled and required to make the same return, as if he were personally present at such execution; and in case such partition be made, returned and filed, he, she or they, that was or were tenant or tenants of any of the said

1797.

But if the tenant or any person interested, shall, within one year after judgment, or, in case of infancy, insanity, coverture, or absence, within one year after the removal of such disability, shew good cause in bar of such partition, the judgment may be set aside, and the party admitted to plead.

No plea in abatement to be admitted.

In the absence of the high sheriff, in what manner the under-sheriff may execute the writ of partition.

1797.

The tenant shall hold the part allotted to his landlord who shall warrant the same, as before partition was made.

messuages, lands, tenements and hereditaments, or of any part or purpart thereof, before they were divided, shall be tenant or tenants for such part set out severally to the respective landlords or owners thereof, by and under the same conditions, rents, covenants and reservations, where they are or shall be so divided; and the landlords and owners of the several parts and purparts, so divided and allotted as aforesaid, shall warrant and make good to the respective tenants the said several parts severally, after such partition, as they are or were bound to do, by any agreement, lease or grant of their respective parts, before any partition made; and in case any demandant be tenant in actual possession to the tenant to the action, for part and proportion, or any part thereof, in the messuages, lands, tenements and hereditaments, to be divided by virtue of a writ of partition as aforesaid, for any term of life or lives, year or years, or uncertain interest, the said tenant, so in actual possession, shall stand and be possessed of the said purparts and proportions, for the like term, and under the same conditions and covenants, when it is set out severally in pursuance of this act.

Penalty on sheriffs and other officers for neglect of duty in executing writs of partition.

6. *And be it enacted*, That the respective sheriffs, their undersheriffs and deputies, and in case of sickness or disability of the sheriff, all justices of the peace, within their respective counties, shall give due attendance to the executing of such writ of partition, unless reasonable cause be shewn to the court, upon oath or affirmation, and there allowed of, or otherwise be liable, every of them, to pay unto the demandant such costs and damages as shall be awarded by the court, not exceeding thirty dollars; for which the demandant or plaintiff may bring his action in any court having cognizance thereof, and recover the same with costs.

Writs of partition to be returnable to the supreme court.

7. *And be it enacted*, That all writs of partition, which shall be issued by virtue of this act, shall be made returnable before the supreme court of this state, and no other, which court is hereby declared to have jurisdiction of the same.

Costs to be apportioned among and paid by the parties according to their respective shares.

8. *And be it enacted*, That in all suits of partition, which shall be instituted by virtue of this act, and wherein the demandant shall recover, the costs thereof shall be divided and apportioned by the court, or any justice of the court, among the demandant, defendant, tenant, and others concerned, according to their respective parts and purparts of the lands, tenements and hereditaments as aforesaid; and if such defendant, tenant, or others concerned, shall not forthwith pay his, her or their proportion of such costs, that then the demandant shall have and recover the same by judgment of the court, and execution against the body or bodies, or the goods and chattels, lands and tenements of such defendant, tenant, or others concerned.

This act not to affect the former act for the partition of lands.

9. *And be it enacted*, That this act, or any thing herein contained, shall not be construed to repeal, or in anywise to affect the act, entitled "An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common," passed the eleventh day of November, in the year of our Lord, one thousand seven hundred and eighty-nine.

See act for the more easy partition, &c., ante page 59.

1797.

A SUPPLEMENT to the act, entitled "An act concerning sheriffs."

PAT. 252.

Passed the 10th of March, 1797.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That where any sheriff, before the expiration of his year, hath died, or removed from out the jurisdiction of the state, or hath otherwise become disabled by law to execute the office, or where any sheriff, before the expiration of his year, shall die, or remove from out the jurisdiction of the state, or otherwise become disabled by law to execute the office, it shall and may be lawful for any one or more of the judges of the court of common pleas of the county, residing in the neighborhood of the said sheriff, and he or they are hereby enjoined and required, where any such death, removal, or other disability hath happened, as soon as may be after the passing of this act, and where any such death, removal, or other disability shall happen, as soon as may be after information or knowledge of the happening of the same, to certify such death, removal, or other disability, to the clerk of the court of common pleas, who is hereby authorized and required to advertise a new election for sheriff, in the manner prescribed in and by the nineteenth section of the act, entitled "An act to regulate the election of members of the legislative council and general assembly, sheriffs and coroners in this state," passed the twenty-second day of February, in the year of our Lord, seventeen hundred and ninety-seven.

In case of the death, removal, or disability of a sheriff, in what manner another shall be elected.

2. *And be it enacted,* That where any sheriff, before the expiration of his year, hath died, or removed from out the jurisdiction of the state, or hath otherwise become disabled by law to execute the office, or where any sheriff, before the expiration of his year, shall die or remove from out the jurisdiction of the state, or otherwise become disabled by law to execute the office, the coroners of the county, or either of them, shall serve and execute all writs and process, until another sheriff be elected and sworn into office; and the coroners or coroner executing such writs and process shall be answerable for the due execution of the same, during such interval, in like manner as the sheriff would have been.

On the death, removal or disability of a sheriff, the coroner shall serve process until another be elected and sworn into office.

3. *And be it enacted,* That where any sheriff or coroner, or other person, to whom any writ of execution by fieri facias hath heretofore been directed, or shall hereafter be directed, hath levied or shall levy the same execution on the goods and chattels, or on the lands and tenements of the party named therein, and such sheriff, coroner, or other person, hath died or shall die, or hath or shall become disabled by law to discharge the duties of their respective office or appointment, or hath removed, or shall remove himself or themselves from out the jurisdiction of the state, and continue to reside thereout, without discharging the duties of their respective office or appointment, by a sale of the property or estate so levied on them, or in either of the said

If a sheriff or coroner, after levying an execution on property, shall die, remove, or be disabled to discharge his official duties, how and by whom the said property shall be sold.

1797.

cases, it shall and may be lawful for the court, in which judgment is or shall be had, to award a special scire facias against the party named in such execution, or the lawful representative of such party, according to the circumstances of the case, to shew cause why the property or estate so levied on should not be sold, or such part thereof as may be sufficient to satisfy the whole or the residue of the moneys contained in the said execution, on which scire facias, returned by the proper officer, that he hath given notice to the party therein named, or that the party liath nothing, &c., and the said party shall not appear at the term, to which such scire facias shall be returned, and plead, or shew sufficient matter to the contrary, the said court shall thereupon award a writ, to be directed to the sheriff or coroner, for the time being, of the county, where the levy was made, commanding the said sheriff or coroner to sell the property or estate so levied on, or so much thereof as may be sufficient to satisfy the whole or the residue of the moneys due on the said execution; which sale the said sheriff or coroner is hereby authorized and required to make, in as full and ample manner, to all intents and purposes, as if the said execution had been originally directed to such sheriff or coroner, and shall be entitled to the same fees for services done, and liable to all the penalties and consequences of law for neglect of duty, as if the said execution had been originally directed to such sheriff or coroner.

Such sale and the conveyance shall be valid and effectual.

4. *And be it enacted*, That the sale to be made by such sheriff or coroner for the time being, in virtue of this act, of any estate, real or personal, and the conveyance to be made by such sheriff or coroner of any real estate so sold, shall be as good and effectual in the law, to all intents and purposes, as if the writ or writs of execution, on which such property or estate was levied, had been originally directed to such sheriff or coroner.

Sheriff to appoint his under-sheriff under hand and seal, who shall take an oath of office.

Such appointment and oath to be filed in the clerk's office.

But the sheriff may remove his under-sheriff at pleasure.

5. *And be it enacted*, That the appointment of any under-sheriff, hereafter to be made, shall be by writing, under the hand and seal of the high-sheriff; and further, that every under-sheriff, before he intermeddles in such office, shall take and subscribe, before one of the judges of the court of common pleas of the county, an oath or affirmation, well and faithfully to execute the office of under-sheriff, according to the best of his skill and judgment; which appointment, with the certificate of the oath or affirmation thereupon endorsed and attested by the said judge, shall be by such under-sheriff carefully filed, and securely kept in the office of the clerk of the court of common pleas in and for the same county; provided that nothing in this section contained shall be construed to prevent the high-sheriff from removing his under-sheriff at pleasure.

Acts of under-sheriff before his appointment and oath are filed, shall be void.

6. *And be it enacted*, That if any person shall proceed to execute the office of under-sheriff, before he shall have received an appointment as aforesaid, and taken the oath or affirmation of office, and filed the same appointment and certificate of such oath or affirmation in the clerk's office as aforesaid, then all such his acts and proceedings done under color of office shall be absolutely void.

For the act, to which this is a supplement, see page 236 of this volume.

AN ACT concerning obligations, and to enable mutual dealers to discount.

1797.

PAT. 254.

Passed the 1st of November, 1797.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That any instrument for the payment of money, to which the person making the same shall affix a scroll, or ink, or other device, by way of seal, shall be taken and adjudged to be of the same force and obligation, as if it were actually sealed with wax.

A scroll, or ink, or other device, by way of seal, shall be valid.

2. *And be it enacted,* That assignments of bills, bonds and other writings obligatory, for the payment of money, shall be good and effectual in law; and an assignee of any such may thereupon maintain an action of debt in his own name, but shall allow all just set-offs or discounts, not only against himself, but against the assignor, before notice of such assignment shall have been given to the defendant.

Assignment of bonds good, and assignee may sue in his own name.

3. *And be it enacted,* That all persons, who now are, or hereafter shall be jointly indebted to any other person or persons, for or upon any joint contract, obligation, matter or thing, for which a remedy could or might be had at law against such debtors, in case all were or could be taken by process issued out of any court of this state, shall be answerable to their creditors separately for such debts; that is to say, such creditor or creditors may issue process against such joint debtors; and in case any of such joint debtors shall be taken and brought into court, by virtue of such process, such of them so taken and brought into court shall answer to the plaintiff or plaintiffs, and if judgment shall pass for the plaintiff or plaintiffs, he, she or they shall have his, her, or their judgment and execution against such of them so brought into court, and against the other joint debtor or debtors named in the process, in the same manner, as if they had been all taken and brought into court by virtue of the said process.

Persons jointly indebted shall be separately answerable to their creditors.

4. *And be it enacted,* That the representatives of one jointly bound with another for the payment of a debt, or for performance or forbearance of any act, or for any other thing, and dying in the life-time of the latter, may be charged, by virtue of such obligation, in the same manner, as such representatives might have been charged, if the obligators had been bound severally as well as jointly.

Representatives of one jointly bound shall be chargeable as in joint and several obligations.

5. *And be it enacted,* That in every action upon any bond, or for any penal sum, for non-performance of covenants, or agreements contained in any indenture, deed or writing, or upon any bond, with condition, other than for the payment of money, the plaintiff may assign as many breaches as he shall think fit; and the jury, upon trial of such action, shall assess damages for such of the said breaches as the plaintiff shall prove to have been broken, and on verdict therefor, the like judgment shall be entered, as heretofore hath been usually entered in such action.

In an action upon a bond for non-performance of covenants, or with condition other than for payment of money, the plaintiff may assign as many breaches as he pleases.

6. *And be it enacted,* That where judgment on demurrer, or

1797.

If judgment be given on demurrer, or by confession, or default, the plaintiff may assign breaches.

On payment of the damages assessed, with costs, execution to be stayed, or if the same be levied, the defendant to be discharged; but the judgment to remain to answer further breaches; on which the plaintiff or his representatives may have a scire facias.

by confession, or default, shall be given for the plaintiff in such action, he may assign as many breaches of the covenants, agreements, or conditions aforesaid, as he shall think fit; upon which a jury shall be summoned to inquire of the truth of such breaches, and to assess the damages, that the plaintiff shall have sustained thereby.

7. *And be it enacted*, That if the defendant, after such judgment entered, and before execution executed, shall pay into the court, where the action is or shall be brought, to the use of the plaintiff, or his executors, or administrators, such damages, so assessed by reason of all or any of the breaches of such covenants, agreements, or conditions, together with costs of suit, a stay of execution of the judgment shall be entered on record; and if by reason of any execution executed, the plaintiff, or his executors or administrators, shall be fully paid or satisfied all such damages so assessed, with costs of suit, and the legal charges for executing the said execution, the body, lands, and goods and chattels of the said defendant shall be thereupon forthwith discharged from the said execution, which shall likewise be entered on record: but in every such case, the said judgment shall, notwithstanding, remain as a security to the plaintiff, his executors and administrators, for any other breaches, which may afterwards happen of such covenants, agreements or conditions; upon which the plaintiff, or his executors, or administrators, may have a scire facias against the defendant, his heirs, devisees, terretenants, executors or administrators, assigning other breaches, to summon him or them respectively to shew cause, why execution should not be had or awarded on the said judgment; and thereupon damages shall be assessed as aforesaid, and execution issued accordingly; and that upon payment or satisfaction, in manner aforesaid, of such future damages, costs and charges as aforesaid, all further proceedings on the said judgment shall be stayed, and so on as often as the same shall happen; and the defendant, his body, lands, goods and chattels, shall be discharged from the said execution.

In an action on single bill or judgment, if the money be paid, the defendant may plead the same in bar.

In an action on a bond, if the money due be paid after the day stipulated for payment, but before action brought, it may be pleaded in bar.

The defendant may, pending an action on a

8. *And be it enacted*, That in any action of debt on single bill, or action of debt, or scire facias, on a judgment, if the defendant hath paid the money due on such bill or judgment, such payment may be pleaded in bar.

9. *And be it enacted*, That in any action of debt on a bond, which hath a condition or defeasance to make void the same on payment of a less sum, at a day or place certain, if the obligor, his heirs, executors, or administrators, have, before the action brought, paid to the obligee, his executors, or administrators, the principal and interest due by the condition or defeasance of such bond, though such payment was not made strictly according to the condition or defeasance, yet it may be pleaded in bar, and shall be as effectual a bar of such action, as if the money had been paid at the day and place, according to the condition, or defeasance, and had been so pleaded.

10. *And be it enacted*, That if at any time pending an action on any such bond, with a penalty, the defendant shall bring into

the court, where the action shall be depending, all the principal money and interest due on such bond, and all such costs as have been expended in any suit or suits in law or equity upon the said bond, the said money, so brought in, shall be deemed and taken to be in full payment and satisfaction of such bond; and the court shall give judgment to discharge the defendant from the same accordingly.

1797.

bond, bring the money due, with costs, into court.

11. *And be it enacted*, That if any two or more dealing together, or having dealt together, be indebted to each other, upon bonds, bills, bargains, contracts, promises, accounts, or the like, and one of them, or his or her executors, or administrators, commence an action against the other or others, his, her, or their executors, or administrators, in any court of this state, if the defendant or defendants cannot gainsay the deed, bargain, contract, or assumption, upon which he, she, or they, is or are sued, it shall be lawful for such defendant or defendants to plead payment of all or any part of the debt or sum demanded, giving notice, in writing, with the said plea, of what he, she, or they will insist upon, at the trial, for his, her, or their discharge, and to give any bond, bill, receipt, account, bargain or contract, so given notice of, in evidence, or else be precluded from bringing any action for that which he, she, or they might or ought to have pleaded and given in evidence by virtue of this act: *And further*, where such suit shall be brought on a bond, bill, or other contract, for the recovery of a penalty, on the non-payment of money only, or for a penalty to secure or enforce the payment of money only, and if any bond, bill, or contract, with such penalty as aforesaid, shall be given in evidence for the plaintiff or defendant upon such trial, under the plea of payment, then the sum bona fide, and in equity due, and not the penalty, shall be deemed and taken to be the debt due.

Mutual dealers may plead payment, and discount.

The real sum due, and not the penalty, shall be considered as the debt.

12. *And be it enacted*, That if, on such trial, it shall appear, that the debt or sum so demanded is paid or satisfied, the jury shall find for the defendant or defendants, and judgment shall be entered, that the plaintiff or plaintiffs take nothing by his, her, or their writ, bill, or plaint; and unless the plaintiff or plaintiffs prosecute as executors, or administrators, the defendant or defendants shall also recover his, her or their costs of suit against such plaintiff or plaintiffs.

If the debt be paid, the jury shall find for the defendant.

13. *And be it enacted*, That if, on such trial, it shall appear, that any part of the debt or sum demanded has been paid or satisfied, then such part shall operate as payment, and so far extinguish the said debt or sum, and in such case it shall be the duty of the jury to set off or discount so much as has been paid or satisfied, and to find a verdict for the amount of the residue or balance, upon which the plaintiff shall have judgment, with costs of suit, if costs ought to be awarded; *Provided*, That in all actions, which shall be brought on any bond or obligation for the payment of money, wherein the plaintiff shall recover, judgment shall be entered for the penalty of such bond or obligation, to be discharged by the payment of the principal, or sum found by the verdict, as the case may require, with interest till paid, and

Jury to discount money paid, and find verdict for balance due.

Judgment shall be entered for the penalty, to be discharged by the payment of the principal, or sum found by the verdict.

1797.

costs, where costs ought to be awarded; unless it be proper that such judgment shall stand as a further security to the plaintiff, his executors and administrators.

If the plaintiff be overpaid, the jury shall find for the defendant to the amount of such surplus.

14. *And be it enacted*, That if, on such trial, it shall appear, that the plaintiff or plaintiffs is or are overpaid, then it shall be the duty of the jury to find a verdict for the defendant or defendants for the sum so overpaid, for which he, she, or they shall have judgment and execution, with costs, unless the plaintiff or plaintiffs prosecute as executors or administrators, in which case, the sum so found by the jury, shall be deemed a debt of record, to be paid in the course of administration, and the defendant or defendants, for recovery thereof, shall have an action of debt, or a scire facias, against the plaintiff or plaintiffs, in the said action.

A certain act repealed.

15. *And be it enacted*, That the act, entitled "An act for preventing multiplicity of lawsuits," passed the fifth day of May, in the year of our Lord, one thousand seven hundred and twenty-two, and every act and clause of acts, within the purview of this act, be, and are hereby repealed.

PAT. 257.

AN ACT ascertaining the duties of commissioners of appeal in cases of taxation.

Passed the 4th of November, 1797.

Commissioners of appeal, where to meet, and how to give notice thereof.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the commissioners of appeal, in cases of taxation, in and for every township, shall, for the purpose of discharging the duties of their office, convene at the usual place of holding town-meeting, and at such times, where it is not otherwise directed by law, as they shall appoint, giving at least eight days previous notice of every such meeting, in writing, under their hands, and fixed up at six or more of the most public places in such township.

The assessor to attend the hearing of appeals.

2. *And be it enacted*, That it shall be the duty of the assessor, who made the assessment appealed from, to attend at the said time and place before the said commissioners, and to offer such reasons as he may think proper in support of the said assessment.

Judgment of commissioners to be rendered within three days, and to be final.

3. *And be it enacted*, That the said commissioners, after due examination of the facts and consideration of the case, shall give such judgment as shall be agreeable to the principles of justice; which judgment shall be final and conclusive, and shall be rendered within three days after the hearing of the said appeal.

A transcript of the judgment to be given to the appellant, if in his favor.

4. *And be it enacted*, That it shall be the duty of the said commissioners to give a transcript of their judgment to the appellant, in case such judgment shall pass in his or her favor, which transcript shall be a sufficient voucher to such appellant; and the collector of such township, in collecting the taxes of the same, and every other officer, whom it may concern, is hereby directed to govern himself accordingly.

5. *And be it enacted*, That such commissioners shall have full power to bring before them, by subpoena or otherwise, any person as a witness on the hearing of such appeal, to whom they are hereby empowered to administer the necessary oath or affirmation.

1797.

Commissioners may subpoena and swear witnesses.

6. *And be it enacted*, That every commissioner of appeal shall be paid out of the public money, in the hands of the collector of such township, the sum of one dollar a day, for every day he shall have attended on the hearing and determining of such appeal, whose receipt shall be a sufficient voucher to such collector for so much of the said money, as shall be paid by him for that purpose.

Compensation of the commissioners, and by whom to be paid.

7. *And be it enacted*, That all costs accruing on any such appeal shall abide the event thereof, that is to say, if the appellant shall be discharged from the payment of the whole or of any part of the said tax, then the costs to be paid out of the public money in the hands of the collector of such township, by an order signed by the said commissioners; but if no abatement be made in such tax, then the costs shall be paid by the appellant.

Costs accruing on appeals, by whom to be paid.

8. *And be it enacted*, That if any of the said commissioners shall neglect or refuse to perform the duties required of him in and by this act, then he shall, for every such neglect or refusal, forfeit and pay ten dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, by the clerk of the township, in which the said commissioner resides, for the use of such township.

Penalty on commissioners for neglect of duty.

9. *And be it enacted*, That the term township, made use of in this act, shall be construed to comprehend precinct and ward.

Township to include precinct and ward.

10. *And be it enacted*, That the act, entitled "An act to ascertain the duty of commissioners of appeals," passed the fifth day of June, in the year of our Lord, one thousand seven hundred and seventy-seven, be, and hereby is repealed.

Former act repealed.

AN ACT to prevent suits under a certain sum being brought in the supreme court.

PAT. 258.

Passed the 6th of November, 1797.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if, in any suit, which shall be instituted in the supreme court of this state, the plaintiff shall not recover above two hundred dollars, exclusive of costs, then such plaintiff shall not be entitled to costs; but this section shall not extend to, or affect any suit, in which the freehold, inheritance, or title to lands, tenements, hereditaments, or other real estate, may in anywise come in question, nor any suit, which may be removed into the said court by the defendant in such suit.

Plaintiff not to have costs, if he shall not recover above \$200.

To what suits this section shall not extend.

2. *And be it enacted*, That no suit, which shall be commenced in any of the inferior courts of common pleas, shall be removed

Suits not to be removed by habeas corpus, unless they exceed \$200.

1797.

by writ of habeas corpus into the said supreme court, unless the debt, damages, matter or thing in controversy shall exceed two hundred dollars.

No writ of habeas corpus to be received after issue joined.

3. *And be it enacted*, That no writ of habeas corpus, for the removal of a cause, shall be received by the inferior court of common pleas, to which it may be directed, nor shall any cause be removed by such writ, after issue joined upon matter of law or of fact.

Cause once remanded, shall never again be removed.

4. *And be it enacted*, That if any cause be removed or stayed by writ of habeas corpus, and afterwards be remanded or sent back by writ of procedendo, or other writ, the same cause shall never again be removed or stayed by any writ of habeas corpus.

Writs of habeas corpus, contrary to this act, not to be regarded.

5. *And be it enacted*, That if any writ of habeas corpus, for the removal of a cause, shall be issued out of the supreme court, contrary to the true intent and meaning of this act, then the court, to which such writ shall be directed or offered, shall proceed in the said cause, as though no such writ had been issued or offered.

Certain acts repealed.

6. *And be it enacted*, That the act, entitled "An act for continuing an act passed in the twenty-first year of his late majesty's reign, entitled an act to prevent actions of fifteen pounds and under being brought into the supreme court of this colony," passed the twenty-eighth day of November, in the year of our Lord, one thousand seven hundred and sixty, and the act, entitled "An act for the speedy recovery of debts from six pounds to ten pounds," passed the sixth day of December, in the year of our Lord, one thousand seven hundred and seventy-five, and the fifth section of the act, entitled "An act to extend the power of justices of the peace in the several counties of this state, and to prevent actions under fifty pounds being brought in the supreme court, and for other purposes therein mentioned," passed the fifth day of June, in the year of our Lord, one thousand seven hundred and eighty-two, and every act and part of acts, coming within the purview of this act, be, and they are hereby repealed.

PAT. 259.

AN ACT relative to juries and verdicts.

Passed the 10th of November, 1797.

Venire facias to be awarded of the body of the county.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every venire facias, for the trial of any issue in any action or suit, civil or criminal, in any court of this state, shall be awarded of the body of the proper county in which such issue is triable; except where a foreign jury shall be deemed necessary, and then the venire facias shall be awarded of the body of the county from which such foreign jury is directed to come.

Qualifications of grand jurors.

2. *And be it enacted*, That every person who shall be summoned to serve as a grand juror, in any court of this state, shall be a citizen of this state, and resident within the county, above the age of twenty-one, and under the age of sixty-five years, and

have a freehold in lands, messuages, or tenements, in the county for which he shall be returned; and if any person, not so qualified, shall be summoned to serve as a grand juror, it shall be a good cause of challenge to such juror, who shall be discharged upon such challenge being verified and substantiated according to law, or on his own allegation and oath or affirmation in support thereof.

1797.

Grand juror, not qualified, may be challenged.

3. *And be it enacted*, That every person who shall be appointed foreman of a grand jury, shall, from the time of his appointment until his discharge, be empowered to administer the usual oath or affirmation to such witnesses as shall come to give evidence to the grand jury, whereof he is foreman. *And further*, That it shall be the duty of such foreman, before he be discharged, to certify to the proper court, under his hand, the names of such witnesses as shall have been, by him, so sworn or affirmed as aforesaid.

Foreman of grand jurors empowered to administer oaths to witnesses.

4. *And be it enacted*, That in case of the sickness, death, or non-attendance of any grand juror or grand jurors, after he or they shall be sworn or affirmed, it shall be lawful for the court, at their discretion, to cause another or others to be sworn or affirmed in his or their stead.

If grand jurors become sick, &c., others may be sworn in their stead.

5. *And be it enacted*, That every summons of any grand juror shall be made by the sheriff, or his lawful deputy, either personally to, or in writing, under his hand, left at the dwelling-house of such grand juror, at least six days before the first day of the court.

Grand jurors, how to be summoned.

6. *And be it enacted*, That every person, summoned to appear on a grand jury as aforesaid, and failing to attend, not having a reasonable excuse, shall be fined by the court in any sum not exceeding twenty dollars, to the use of the county where such offence was committed.

Penalty on grand jurors for not attending.

7. *And be it enacted*, That every petit juror, who shall be returned upon the trial of any indictment, presentment, or pleas of the state, in any court thereof, and every juror who shall be returned upon trials of issues in the supreme court, or in any of the circuit courts, or before any justice or justices of assize, or in any of the inferior courts of common pleas, shall be a citizen of this state and resident within the county, above the age of twenty-one, and under the age of sixty-five years, and have a freehold in lands, messuages or tenements in the county for which he shall be returned; and if any person, who is not so qualified, shall be summoned as a juror on the trial of any indictment, presentment, pleas of the state, or issue, in any of the courts in this section specified, it shall be a good cause of challenge to such juror, who shall be discharged upon such challenge being verified and substantiated according to law, or on his own allegation, and oath or affirmation in support thereof. *Provided*, That no exception against any such juror, on account of his citizenship, estate or age, or any other legal disability, shall be allowed after he is sworn or affirmed.

Qualification of petit jurors.

Petit jurors, not qualified, may be discharged.

8. *And be it enacted*, That the summons of every juror, de-

1797.

Petit jurors,
how to be sum-
moned.

Penalty for not
attending.

What suffi-
cient to be in-
serted in the
mandatory
part of the ha-
beas corpora
juratorium, or
distringas.

Penalty on
sheriffs and
other officers
for taking a re-
ward to excuse
persons from
serving on ju-
ries.

Courts em-
powered to or-
der views,
where proper
and necessary.

Expense of
view, how to
be paid.

No evidence
to be given at
the taking
thereof.

If no view,
&c., be had,
the trial shall
proceed.

scribed in the section next preceding, shall be made by the sheriff, or his lawful deputy, either personally to, or in writing, under his hand, left at the dwelling-house of such juror six days, at the least, before the day on which such juror ought to make his appearance at court; and such juror, in case of non-attendance, shall, if he does not assign any reasonable excuse, be fined by the court in any sum, not exceeding sixteen dollars, to the use of the county, where such offence was committed.

9. *And be it enacted*, That it shall be sufficient, in the mandatory part of the writ of habeas corpora juratorium, or distringas, to insert the following words: "The bodies of the several persons named in the panel to this writ annexed," or words of the like import, and to annex to the said writ a panel, containing the same names as were returned in the panel to the venire facias juratores.

10. *And be it enacted*, That no sheriff, coroner, or other officer, or any deputy of such sheriff, coroner, or other officer, shall, directly or indirectly, take, accept or receive any money, or other reward or thing, to excuse any person from serving, or being summoned or returned to serve on any jury or inquest, or under that color or pretence, on pain of forfeiting one hundred and fifty dollars for every such offence, the one moiety to the state, and the other moiety to any person, who shall prosecute for the same, to be recovered, with costs, by action of debt, in any court of record having cognizance of that sum.

11. *And be it enacted*, That it shall be lawful for the supreme court, or inferior court of common pleas, in which any action is or shall be depending, and where it shall appear to the court to be proper and necessary, that the jurors, who are to try the issue in the said action, should have a view of the messuages, lands or place in question, in order to their better understanding the evidence that will be given on the trial of such issue, to order a special writ of distringas, or habeas corpora juratorium, to issue, by which the sheriff or other officer, to whom the same shall be directed, shall be commanded to have six or more of the first twelve of the jurors, named in the panel to such writ annexed, at the place in question, not less than six days prior to the first day of the court, who then and there shall have the matters in question shewn to them, by two persons, in the said writ named, to be appointed by the court; and the sheriff, or other officer, who is to execute the said writ, shall, by a special return on the same, certify, under his hand, that the view hath been had according to the command of the said writ.

12. *And be it enacted*, That the expenses of taking the said view shall be equally borne by both parties, and that no evidence shall be given on either side at the time of taking thereof. *Provided always, and be it further enacted*, That in case no view shall be had, or if a view shall be had by any of the said jurors, whether they shall happen to be any of the twelve jurors, who shall be first named in the said writ or not, yet the said trial shall proceed; and no objection shall be made on either side for want of a view, or that a view was not had by any of the twelve jurors

first named, or for that it was not had by any particular number of the jurors named in the said writ, or for want of a proper return to the said writ.

1797.

13. *And be it enacted*, That it shall be the duty of the respective sheriffs of the several counties in this state, at their own expense, to procure, yearly and every year, a list of the names of the persons, who, in their respective counties, are qualified to serve as jurors on trials.

Sheriff annually to procure a list of persons qualified to serve as jurors.

14. *And be it enacted*, That it shall and may be lawful for the supreme court, the courts of common pleas, and the courts of general quarter-sessions of the peace, respectively, on motion, in behalf of this state, or of any prosecutor or defendant in any indictment, or information in nature of a quo warranto, or on motion, in behalf of this state, or of any plaintiff, demandant, avowant, tenant, or defendant, in any action or suit, depending, or to be depending before them, and triable by a jury of twelve men, to order a jury to be struck for the trial thereof; but this clause shall not extend to any indictment for any offence, where the party is entitled to challenge peremptorily, or without cause shewn.

The supreme courts and courts of common pleas and sessions of the peace, empowered to order struck juries.

15. *And be it enacted*, That it shall be the duty of the sheriff of the proper county, or other officer, who ought to empanel the jury in such case, to deliver at a certain day and place, to the judge of the court, before whom the jury is to be struck, a book, containing the names of the several persons in his county, qualified to serve as jurors on such trial, with their places of abode; and the party applying for such struck jury, or his attorney, shall give eight days previous notice to the adverse party, or his attorney, and to the judge, sheriff, or other officer aforesaid, of the time and place of striking the said jury; at which time and place the said judge shall, in the presence of the parties, or their agents, or attorneys, or such of them as shall attend for that purpose, select and transcribe from the said book the names of forty-eight such persons, with their places of abode, as he shall think most impartial and indifferent between the parties, and best qualified as to talents, knowledge, integrity, firmness and independence of sentiment, to try the said cause; and thereupon the party applying for such jury, his agent or attorney, shall first strike out one of the said names, and then the adverse party, his agent or attorney, shall strike out another, and so on, alternately, until each shall have stricken out twelve; but if the adverse party shall not attend such striking, nor any person in his behalf, then the said judge shall strike for him; and when each shall have stricken out twelve, as aforesaid, the remaining twenty-four shall be the jury to be returned to try the said cause; and the said judge shall thereupon make a fair copy of the names of the remaining twenty-four persons, with their places of abode, and certify the same under his hand to be the list of jurors struck, as aforesaid, for the trial of the said cause; which list shall be delivered to the sheriff, or other officer, who ought to summon such jury, together with the venire facias; and such sheriff, or other officer, shall thereupon annex the same list to the said venire facias, and re-

Mode of striking a jury.

See act, February 10th, 1813.

1797.

turn the same as the panel of the jury to try the said cause, and summon them according to the command of the said writ.

Fees for striking a jury, to be paid by the applicant.

Challenges in behalf of the state, how to be decided.

Jurors shall not be compelled to give a general verdict.

Jurors, how to give evidence.

Jury may take with them papers, though not under seal.

Where one of several counts is bad, and general damages given, the verdict shall be good.

If the verdict in detinue omit price or value, a writ of inquiry may be awarded.

If no verdict be found for part of the things in one count in detinue, it shall not be error.

PAT. 203.

Grantees of lands, or of reversions, to enjoy the same benefits as the original lessors.

16. *And be it enacted*, That the party applying for such struck jury shall pay the fees for striking the same, and shall not have any allowance therefor upon the taxation of costs.

17. *And be it enacted*, That if the attorney-general, or any other person prosecuting for this state, shall, in behalf of the state, challenge any juror, he shall immediately assign the cause of such challenge, and the truth thereof shall be inquired into and decided upon in the same manner as the challenges of other parties are by law inquired into and decided upon.

18. *And be it enacted*, That no jury shall in any case be compelled to give a general verdict, so that they find a special verdict, and show the truth of the fact, and require the aid of the court; but if, of their own will, they give a general verdict, the same shall be received at their peril.

19. *And be it enacted*, That jurors, who know any thing relative to the point in issue, shall, during trial, disclose the same in open court.

20. *And be it enacted*, That papers read in evidence, though not under seal, may be carried from the bar by the jury.

21. *And be it enacted*, That where there are in a declaration several counts, some of which are faulty or bad, and others not, and entire damages are given, the verdict shall be good and effectual in law; but the defendant may apply to the court to instruct the jury to disregard such faulty or bad counts.

22. *And be it enacted*, That if, in detinue, the verdict shall omit price or value, the court may, at any time, award a writ of inquiry to ascertain the same.

23. *And be it enacted*, That if, on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error; but the plaintiff shall be barred of his title to the things omitted.

AN ACT enabling grantees of reversions and lessees mutually to avail themselves of covenants and conditions.

Passed the 10th of November, 1797.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all persons, and bodies politic and corporate, being grantees or assignees of any lands, tenements or hereditaments, let to lease, or of the reversions thereof from any person or persons, and the heirs, executors, administrators, successors and assigns, of such grantees or assignees, shall have and enjoy the like advantages against the lessees, their executors, administrators and assigns, by entry for non-payment of rent, or for waste or other forfeitures; and also shall have and enjoy all the covenants, con-

ditions, and agreements, contained in the indentures of their said leases, demises or grants, against the said lessees, their executors, administrators and assigns, as the said lessors themselves, or their heirs, ought or might have had or enjoyed at any time or times.

1798.

2. *And be it enacted*, That all lessees of any lands, tenements or hereditaments, for a term of years, life or lives, their executors, administrators and assigns, shall have the like action and advantage against all persons, and bodies politic and corporate, their heirs, successors, and assigns, who have or shall have any gift or grant of the reversion of the said lands, tenements or hereditaments, so let, or any part thereof, for any condition, covenant or agreement, contained in the indentures of their lease or leases, as the same lessees, or any of them, ought or might have had against the said lessors and their heirs; all benefit and advantage of recoveries in value, by reason of any warranty in deed or in law, only excepted.

Lessees of lands to have the same advantages against the grantees of reversions as against the original lessors.

AN ACT for the further division of the township of Newton, in the county of Sussex. PAT. 853.

Passed the 5th of February, 1798.

WHEREAS a number of the inhabitants of the township of Newton, in the county of Sussex, by their petition, have set forth, that they labor under many and great disadvantages, by reason of the great extent of the said township; for remedy Preamble.
WHEREOF—

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Newton lying to the south of the following line; to wit, beginning in the road that leads from the red meeting-house, on the Wallkill, to Sussex court-house, where the line between Hardyston and Newton crosses said road, from thence along the top of the ridge of mountains, northwesterly side of the Long meadows, which is a southwesterly course, to the height of said mountain, between Nathan Whitehead's and Herman Melheim's, from thence a straight line to within one chain of the southeasterly side of the place known by the name of the Narrows, on the road leading from Newton, Sussex court-house, to Morristown, from thence the same course to the Independence line, shall be, and the same is hereby set off from the township of Newton, and the same is hereby established a separate township, to be called by the name of, "Byram." Bounds of the new township.

Its name.

1798.

PAT. 264.

AN ACT for the division of the township of Roxbury, in the county of Morris.

Passed the 12th of February, 1798.

Preamble.

WHEREAS a number of the inhabitants of the township of Roxbury, in the county of Morris, by their petition, have set forth, that they labor under many disadvantages by reason of the great length of the said township; for remedy **THEREOF**—

Bounds of the
new township.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Roxbury, in the county of Morris, lying within the following boundaries; to wit, beginning in the line of Somerset county, near the rock school-house, in the barrens, near David Ommerman's house, from thence a straight course to the school-house, near Nicholas Emmans' dwelling-house, from thence a straight course to Skinner's and Emmans' forge, thence up the river to Elias Howell's mill, thence a straight course to Robert Carlisle's, junior, house, from thence a straight course to the house where Daniel Stewart lately lived, formerly called James Eaton's, from thence along the great road up Schooley's mountain, by William Wire's house, thence along the most direct road to Hackets-town bridge, thence down the river to Hunterdon county line, thence along the lines of Hunterdon and Somerset to the place of beginning, shall be, and the same is hereby set off from the township of Roxbury, and the same is hereby established a separate township, to be called by the name of, "The Township of Washington."

Its name.

PAT. 264.

AN ACT for dividing the township of Great Egg-Harbor, in the county of Gloucester, into two separate townships.

Passed the 12th of February, 1798.

Preamble.

WHEREAS a number of the inhabitants of the township of Great Egg-Harbor, in the county of Gloucester, by their petition, have set forth, that they have long labored under many and great difficulties by reason of the extent of the said township; for remedy **WHEREOF**—

Bounds of the
new township.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Great Egg-Harbor, lying to the west and southwest of the said Great Egg-Harbor river; to wit, beginning at the mouth of Turkeyhoe river, thence up the middle of Great Egg-Harbor river until it meets the line of Deptford township, thence along the said line to the line between Cumberland and Gloucester county, thence down said line till it intersects the line between Gloucester and Cape-May, thence down the middle of Turkeyhoe river to the place of beginning, shall be, and the same is hereby set off from the township of Great Egg-Harbor, and the same is hereby established a separate township, to be called by the name of, "Weymouth."

Its name.

AN ACT to incorporate the chosen freeholders in the respective counties of the state.

1798.

PAT. 265.

Passed the 13th of February, 1798.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the chosen freeholders of the several townships, precincts, and wards in the respective counties of this state, and their successors, shall be, and they are hereby constituted a body politic and corporate in law by the following names; that is to say,

Chosen freeholders of the respective counties incorporated.

That the said freeholders, in and for the county of Bergen, shall be styled and known by the name of, "The board of chosen freeholders of the county of Bergen."

Names of the several boards of freeholders.

That the said freeholders, in and for the county of Essex, shall be styled and known by the name of, "The board of chosen freeholders of the county of Essex."

That the said freeholders, in and for the county of Middlesex, shall be styled and known by the name of, "The board of chosen freeholders of the county of Middlesex."

That the said freeholders, in and for the county of Monmouth, shall be styled and known by the name of, "The board of chosen freeholders of the county of Monmouth."

That the said freeholders, in and for the county of Somerset, shall be styled and known by the name of, "The board of chosen freeholders of the county of Somerset."

That the said freeholders, in and for the county of Burlington, shall be styled and known by the name of, "The board of chosen freeholders of the county of Burlington."

That the said freeholders, in and for the county of Gloucester, shall be styled and known by the name of, "The board of chosen freeholders of the county of Gloucester."

That the said freeholders, in and for the county of Salem, shall be styled and known by the name of, "The board of chosen freeholders of the county of Salem."

That the said freeholders, in and for the county of Cape-May, shall be styled and known by the name of, "The board of chosen freeholders of the county of Cape-May."

That the said freeholders, in and for the county of Hunterdon, shall be styled and known by the name of, "The board of chosen freeholders of the county of Hunterdon."

That the said freeholders, in and for the county of Morris, shall be styled and known by the name of, "The board of chosen freeholders of the county of Morris."

That the said freeholders, in and for the county of Cumberland, shall be styled and known by the name of, "The board of chosen freeholders of the county of Cumberland."

That the said freeholders, in and for the county of Sussex, shall be styled and known by the name of, "The board of chosen freeholders of the county of Sussex."

1798.

Such corporations may hold property, have a common seal, may sue and be sued, and make by-laws.

Process against them, how to be served.

In what cases such corporations are authorized to grant and raise money.

May adjourn, &c.

Time and place of their annual stated meetings.

Director of the board to be elected.

Clerk to be elected: his pay and duty.

2. *And be it enacted*, That the said boards of chosen freeholders, in and for their respective counties, and their successors, shall be able and capable to acquire, purchase, receive, have and hold any lands, tenements, hereditaments, goods and chattels, in trust to and for the use of their said counties respectively, and for such other uses as are or may be designated by law; to sue or be sued, implead or be impleaded, to make and use a common seal, and the same to alter and renew at their pleasure, and to ordain, establish, and put in execution such by-laws, ordinances and regulations, as shall seem necessary and convenient for the government of their respective corporations; provided the same are not contrary to the constitution or laws of this state.

3. *And be it enacted*, That when any suit shall be instituted against any of the said corporations, a copy of the summons, precept, or such other legal process, as may be issued against the same, shall be left with the director of the board, or clerk thereof, thirty days at least before the session of the court, to which such process shall be returnable.

4. *And be it enacted*, That it shall be the duty of every such corporation, at their stated annual meeting, or at any other meeting duly held for the purpose, to vote, grant and raise such sum or sums of money for the building, purchasing, or repairing of poor-houses, gaols, court-houses and bridges, the surveying and ascertaining the lines, the prosecuting and defending the rights, defraying the public and other necessary charges, and doing, fulfilling and executing all the legal purposes, objects, business and affairs of such county, as they or the major part of them shall deem adequate or proper; all which moneys, so raised, shall be applied, paid and expended under the direction and management of the said corporation.

5. *And be it enacted*, That it shall and may be lawful for such corporation, at their annual or other legal meetings to adjourn from time to time as they shall judge necessary.

6. *And be it enacted*, That there shall be a stated meeting of every such corporation at the place of holding the court of common pleas in and for such county, at the hour of eleven in the forenoon of the second Wednesday in the month of May, annually.

7. *And be it enacted*, That it shall and may be lawful for every such corporation to elect, annually, one of their own members to preside at their meetings, who shall be called, the director of the board; and in case of his absence or refusal to act, then such corporation shall proceed to the election of another.

8. *And be it enacted*, That the said corporation shall annually elect some fit person, being a freeholder and resident in the county, and not a member of such corporation, for their clerk, who shall be entitled to the sum of one dollar and a half, for every day he shall be employed in the duties of his office, and whose duty it shall be to keep the minutes, and enter the orders and proceedings of the corporation in a book to be kept for the purpose, and who shall have the custody of the common seal, and

the papers, deeds, writings, documents, and books relating to the said corporation; which clerk shall, before he enters upon the execution of his office, take and subscribe an oath or affirmation before the director of the board, who is hereby authorized to administer the same, that he will well and faithfully discharge all the duties appertaining to the said office.

1798.

9. *And be it enacted*, That upon the death or expiration of the office of clerk of any of the said corporations, the common seal, and all the minutes, papers, deeds, writings, documents, and books of or belonging to such corporation, shall be delivered to the successor in office, on the oath or affirmation of the preceding clerk, or, in case of his death, on the oath or affirmation of his executors or administrators; and if any such clerk, his executors or administrators, shall refuse or neglect to deliver the same, on oath or affirmation as aforesaid, being lawfully demanded, then every such person shall forfeit one hundred dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, in the name and for the use of the said corporation.

On the death or expiration of the office of clerk, the common seal, books, &c., to be delivered to his successor. Forfeiture in case of refusal or neglect.

10. *And be it enacted*, That it shall be the duty of the director of the board, or, in case of his absence, inability, or death, then of the clerk thereof, on application in writing, subscribed by any three of the said chosen freeholders, and specifying the business, object and purpose of calling the said board, to convene special meetings of the said corporation, by writing under his hand, directed to the respective members thereof, and left at their respective places of abode, at least fourteen days prior to the day of meeting, mentioning therein the time and business, object or purpose of such meeting; and further, that all special meetings shall be held at the place of holding the annual stated meeting. And if any such director or clerk shall, on application as aforesaid, refuse or neglect to call or convene such special meeting of the said corporation, then he shall forfeit one hundred dollars, to be recovered, with costs, by action of debt, in any court having cognizance of the same, in the name and for the use of the said corporation.

Special meetings, how to be convened.

11. *And be it enacted*, That if any of the members of the said corporation shall neglect or refuse to attend at the annual stated meeting, or at any special meeting as aforesaid of such corporation, then such member shall forfeit eight dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, in the name and for the use of the said corporation.

Penalty on any member not attending the meetings of the corporation.

12. *And be it enacted*, That when any of the said corporations shall pass an order or grant, for the raising of any sum or sums of money for any purpose specified in this or any other act, it shall be the duty of such corporation to direct, in writing, the assessors of the respective townships in the said county, to assess the said sum or sums on the inhabitants and their estates, agreeably to the law for the time being for the raising of money by taxation for the use of the state; and further, that it shall be their duty also to direct, in writing, the time and place of the meeting of the said assessors, to adjust and ascertain the proportion of the said

When such corporation shall pass a grant for any money, how the same is to be assessed and raised.

1798.

The duties,
penalties and
compensa-
tions of as-
sors and col-
lectors.

sum or sums to be levied on each township, and the time for collecting the same; which proportion, so adjusted and fixed, shall be assessed and collected by the respective assessors and collectors of the several townships in such county.

13. *And be it enacted*, That when any of the said corporations shall at any time consider a tax, for any of the purposes specified in this or any other act, necessary to be raised at a time different from the state tax, then the said assessors and collectors shall perform the like duties, be allowed the like compensation for their services in the premises, be liable to the like fines and penalties, to be recovered by the same persons, and in like manner, and in all things be governed by the like regulations, as are prescribed and enjoined in and by the law for the time being for the assessing, levying, and collecting money by taxation for the use of the state; except so far as relates to the time of assessing and collecting, which shall be ascertained in the manner mentioned in the section next preceding; and except also, that the fines and penalties shall, when recovered, be paid to the director of such corporation, and applied to such county uses and purposes, as the said corporation shall direct. *Provided always*, That when the said tax shall be ordered to be raised at the same time with the state tax, one half of the usual fees, and no more, shall be allowed to the said assessor and collector.

Appeal allow-
ed.

14. *And be it enacted*, That if any person shall think himself or herself aggrieved by any such assessment, he or she may appeal to the commissioners of appeal in and for the township or precinct, agreeably to the act, entitled "An act ascertaining the duties of commissioners of appeal, in cases of taxation."

When town-
ship collector
shall return
the names of
delinquents to
a justice of the
peace;

15. *And be it enacted*, That in case of non-payment of the assessment of any tax, which shall be due at any time different from that fixed for the payment of the state tax aforesaid, for the space of twenty days after demand thereof, the collector of such township shall make out a list of the names of such delinquents, with the sums due from them respectively, thereto annexed, and forthwith deliver the same to some justice of the peace residing in such township, or, if necessary, to any other justice of the peace of the said county, and shall, within one week after the expiration of the said twenty days, pay the taxes by him received to the collector of the county.

and when to
pay the tax to
the county
collector.

Township col-
lector to make
oath to the
truth of his re-
turn.

16. *And be it enacted*, That it shall be the duty of the said justice of the peace, on receiving a list of the names of such delinquents, mentioned in the preceding section, to administer an oath or affirmation to the said collector, that the moneys in the said list mentioned had been duly demanded, or due notice thereof given to or left at the usual place of abode of each delinquent, who may then reside in such township; and thereupon shall give to the collector a receipt for such list, certifying therein the names of such delinquents, and the sums at which they were respectively assessed; and further, that the said township collector shall not be charged by the county collector with the sums in such list contained, until he receive the same from the constable.

17. *And be it enacted*, That when any list of the names of delinquents as aforesaid shall be received by any justice of the peace for prosecution, it shall be the duty of such justice to proceed thereon in the manner prescribed by the then existing law for the recovery from the delinquents of taxes directed to be raised for the use of the state.

1798.

How justices of the peace are to proceed against delinquents.

18. *And be it enacted*, That it shall be the duty of every constable to execute every warrant, precept, or other process, to him directed and delivered against such delinquents, respectively, or their estates, in the manner prescribed in and by the law for the time being, in cases of the like kind, where taxes are to be raised for the use of the state.

Constables, how to proceed in the exercise of their office.

19. *And be it enacted*, That each of the said corporations shall, at their annual stated meetings, elect some fit person, being a freeholder and resident in such county, and not a member of such corporation, to the office of county collector, who shall, before he enters upon the execution of his office, give bond, with two sureties, being freeholders and residents in the county, to the said corporation, in such penal sum as they shall think proper, conditioned for the faithful performance of the duties of his said office as collector of such county according to law.

County collector, when and by whom to be elected, &c.

To give bond.

20. *And be it enacted*, That if the person, so chosen to the office of county collector, shall die, or remove out of the county, or become incapable of serving, or shall refuse to serve, or neglect or refuse to give such bond, as aforesaid, then it shall be lawful for the said corporation to elect another in his room.

If county collector die, &c., another to be elected.

21. *And be it enacted*, That the said corporations shall be, and they hereby are severally empowered, from time to time, and as they shall judge proper, to require all public officers in and for their respective counties, and others, to render unto them a true account of all the moneys or other property, which they have heretofore received, or shall hereafter receive, or be entrusted with, by virtue of this or any other act, for the use of the said corporations, or their respective counties, and to institute, at law or in equity, such suit or suits against such officers and persons, or any of them, or their or any of their legal representatives, for such moneys or other property as aforesaid, or any part thereof, as shall be necessary or proper. *And further*, That the said corporations are hereby also severally empowered to require such officers and others, to render unto them, from time to time, a true account of all moneys or other property belonging to this state, which such officers or others have received, or may receive, and for which they are responsible to, and liable to be sued by, the said state or its treasurer, or other person in behalf of the state; and also to institute such suit or suits as aforesaid for the same, as they shall judge proper.

In what cases such corporations are empowered to call to account and prosecute officers having state or county moneys in their hands.

22. *And be it enacted*, That if any county collector shall neglect or refuse to account as aforesaid to and with such corporation, when thereunto lawfully required, he shall, for every such neglect or refusal, forfeit three hundred dollars, to be recovered, with costs, by action of debt, in any court having jurisdiction of

Penalty on county collectors neglecting or refusing to account.

1798.

that sum, by and in the name of such corporation, and the same, when recovered, shall be appropriated to such county uses and purposes as the said corporation shall direct; and the said county collector shall also be liable to be prosecuted in the manner prescribed in the section next preceding.

Times of paying forward tax moneys received.

23. *And be it enacted*, That it shall be the duty of every constable to pay the tax money, which he shall raise from every delinquent on any warrant, precept or other process, to him directed for that purpose, to the collector of the township, within eight days after he shall have made the same. *And further*, That it shall be the duty of such collector to pay such tax money, so by him received from the said constable, to the county collector, within two weeks after receiving the same.

Township liable for deficiency or loss of money occasioned by the waste, insolvency, &c., of the collector of such township.

24. *And be it enacted*, That if the collector of any township shall squander, waste, embezzle, or become insolvent and unable to pay any tax moneys or other moneys, or property belonging to the said corporation, or their respective counties, and by him received, then the said township, for which such collector was chosen or appointed, shall be liable for, and make good such deficiency or loss, by adding the same to the quota of such township, in the next assessment to be made therein by the authority of the corporation of such county, and which the assessor of such township is hereby required to assess, under the like penalties as are herein before referred to for neglect of duty.

Township collector and constable to account, and pay surplus money on assessments to the township.

25. *And be it enacted*, That the collector and constable of every township is hereby directed to render a true account to the inhabitants of such township, at their annual or other meeting, of all moneys, which he shall receive on any assessment to be made in such township by the authority of the corporation of such county; and if there be any overplus money remaining in his hands, he shall pay the same to such person or persons as may be appointed to receive the same by the inhabitants of such township, who, at their annual meeting, shall appropriate it to such township uses, as they shall think proper to direct; and in case such collector or constable shall not so account and pay as aforesaid, then the inhabitants of the said township are hereby empowered to prosecute him for the same.

County collector to pay tax money to the order of the corporation.

26. *And be it enacted*, That the collector of the county shall, from time to time, pay the money by him received, in pursuance of any assessment made by the corporation of such county, to the order of the corporation, signed by the director for the time being.

Penalty on county collector for neglect of duty.

27. *And be it enacted*, That if any county collector shall neglect or refuse to pay such tax or other moneys, by him received as aforesaid, to the order of such corporation, or shall neglect or refuse to perform any of the duties enjoined on him by law, where taxes are to be assessed, levied, raised and collected by the authority of the corporation of the said county, he shall, for every such offence, forfeit and pay three hundred dollars, to be recovered, with costs, by action of debt, in any court of record having cognizance of that sum, by the corporation of the same coun-

ty, to be applied, on recovery, to such county uses as they shall direct.

1798.

28. *And be it enacted*, That the county collector shall be allowed after the rate of two cents on every dollar for all tax and other moneys, which he shall receive and pay to the order of such corporation.

His compensation.

29. *And be it enacted*, That the justices of the peace and constables shall severally perform the like duties, be allowed the like compensation for their services in the premises, be liable to the like fines and penalties, to be recovered by the same persons, and in like manner, and in all things be governed by the like regulations, as are prescribed and enjoined in and by the law for the time being for the assessing, levying and collecting money by taxation for the use of the state, except so far as is herein otherwise directed, and except also, that the fines and penalties shall, in cases of assessments made by authority of the corporation of any county, be paid, when recovered, to the director of such corporation, and applied to such county uses and purposes as the said corporation shall direct.

Duties, compensation and penalties of justices and constables under this act.

30. *And be it enacted*, That it shall and may be lawful for the board of chosen freeholders of every county in this state, if they shall deem it necessary, to purchase or build a poor-house, at such place in the county, as the said corporation shall appoint.

Corporation may purchase or build a poor-house;

31. *And be it enacted*, That the said poor-house, when built or purchased, shall be under the direction, superintendence, and government of the said corporation, who are hereby authorized to appoint such officers, hire such servants, and to make such regulations, ordinances, and by-laws respecting the same, as they shall from time to time deem necessary or convenient.

which shall be under their direction.

32. *And be it enacted*, That the poor of the county shall be sent to and kept in such poor-house, when built or purchased agreeably to law, at the charge and expense of the county; and the said corporation are hereby empowered to procure such articles, materials and things for their employment, and to put them to such work, as they or the officers by them appointed shall, from time to time, direct; and the money necessary to be expended for the purposes specified in this and the preceding section shall be granted and raised by the order of the said corporation, in the like manner as money for other county purposes is directed to be granted, assessed, collected and raised by virtue of this act.

Poor to be kept in such poor-house at the expense of the county.

33. *And whereas* it may be convenient and economical for two or more counties to unite in building or purchasing a poor-house; *Be it therefore enacted*, That the boards of chosen freeholders of any two or more counties are hereby authorized to join in building or purchasing a poor-house in common for the said counties, at such place as they shall agree upon, and which, when built or purchased, shall be under the joint direction, superintendence and government of the said corporations, whose duty it shall be to elect such officers, hire such servants, and make such regulations, ordinances and by-laws respecting the same, as they shall, from time to time, deem necessary or convenient.

Two or more counties empowered to unite in building or purchasing a poor-house.

1793.

The corporations of such counties to procure materials for the employment of the poor.

Expenses of such poor-house, &c., how to be adjusted and paid.

Allowance to the members of such corporations.

Township to include precinct and ward.

Former laws repealed.

34. *And be it enacted*, That the said corporations, so uniting in building or purchasing the poor-house last mentioned, are hereby empowered to procure such articles, materials and things for the employment of the poor, that may be sent to and kept therein, and to put them to such work and service, as they or the officers by them appointed shall think proper to direct.

35. *And be it enacted*, That the moneys necessary to be expended for building, purchasing, or repairing the said poor-house, maintaining the poor therein, procuring articles, materials and things for their employment, compensating the said officers and servants, and for other incidental expenses, shall be adjusted and apportioned by the said corporations between their respective counties in equal moieties, or by the rates of tax, which each shall be assessed to pay for the support of government, or in such other proportion, as the said corporations shall deem just and proper; and the sum, so ascertained and agreed upon to be paid by each county, shall be granted and raised by the order of the corporation of such county, in the same manner as money for other county purposes is directed to be granted, assessed, collected, and raised by virtue of this act.

36. *And be it enacted*, That each of the members of the respective boards of chosen freeholders shall have and receive, out of the moneys raised by order of such boards, one dollar for each day he shall be necessarily employed in discharging the duties enjoined on him by this act.

37. *And be it enacted*, That the term, "township," made use of in this act, shall be understood to comprehend precinct and ward.

38. *And be it enacted*, That the act, entitled "An act for raising of money for building and repairing of gaols and court-houses within each respective county of this province," passed the twenty-eighth day of February, in the year, one thousand seven hundred and thirteen-fourteen; the act, entitled "An act for the more regular choosing and electing assessors and collectors in the respective towns and counties in this province," passed the twenty-sixth day of January, one thousand seven hundred and sixteen-seventeen; the act, entitled "An act to prevent mistakes and irregularities by assessors and collectors," passed the twenty-eighth day of March, one thousand seven hundred and nineteen; the act, entitled "An act to enable the freeholders, in conjunction with three justices of the peace, to choose a collector for each respective county within this province," passed the thirty-first day of July, one thousand seven hundred and forty; the act, entitled "An act to empower the freeholders chosen in each county of this colony, or the major part of them, in conjunction with three justices of the peace, to direct the method of assessing the inhabitants of each county, and to restrain the unnecessary meetings of said freeholders," passed the second day of December, one thousand seven hundred and forty-three; the act, entitled "An act to empower the justices and freeholders of each county to adjourn, and to remedy the neglect of choosing county collectors," passed the fifth day of December, one thou-

sand seven hundred and sixty; the first section of the act, entitled "An act for raising the penalties on delinquent freeholders, and on persons refusing to serve as constables," passed the eighth day of June, one thousand seven hundred and eighty-one; the act, entitled "An act incorporating the justices and chosen freeholders in the several counties in this state, for the purpose of taking titles for lots of land, on which the court-houses, gaols and other public buildings belonging to the said respective counties, are now or hereafter may be erected," passed the third day of March, one thousand seven hundred and eighty-six; and the act, entitled "An act more effectually to empower the justices and chosen freeholders in the several counties in this state, to call to account county collectors for money and other public property by them received," passed the first day of June, one thousand seven hundred and eighty-six; and every act and part of acts, coming within the purview of this act, be, and the same are hereby repealed. *Provided always*, That such repeal shall not extend to or affect any suit, which hath been instituted before the passing of this act, under or by virtue of the acts in this section mentioned, or any of them; but such suit shall be proceeded upon and prosecuted to effect, in the same manner as if this act had not been made.

1798.

See act 1st December, 1804, mile-stones, &c., and additional act 10th Feb. 1819, and act 28th Feb. 1820.

AN ACT making provision for carrying into effect, the "Act for the punishment of crimes." PAT. 271.

Passed the 16th of February, 1798.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That every person sentenced to hard labor and imprisonment, agreeably to the directions of the "Act for the punishment of crimes," for a longer time than six months, shall, within twenty days after his or her conviction, be transported, at the expense of the state, to the state-prison, by the sheriff of the county, where such conviction may be had, or his lawful deputy, and there delivered into the custody of the keeper of said prison, with a copy of the sentence of the court ordering such punishment, together with the costs of prosecution against such offender, certified under the hand and seal of the clerk of said court, to be there safely kept until the term of his or her confinement shall have expired, and until the fine or fines, and costs of prosecution shall be paid, or until he or she shall be discharged by due course of law; for which service the said sheriff or his deputy shall receive the sum of ten cents per mile going to, and ten cents per mile returning from, the said prison, to be calculated from the gaol of the county, in which the conviction was had, for his time and expenses, together with all reasonable expenses for sustaining, transporting and securing such offender while on his

Persons sentenced to hard labor for a longer time than six months, to be sent to the state-prison.

1798.

way to the said prison; all which sums shall be certified by two or more of the inspectors hereinafter mentioned, and paid on their order by the treasurer of this state, out of any moneys in his hands belonging to the state. *Provided always, and be it enacted*, That every person sentenced to imprisonment, agreeably to the act aforesaid, for any time not exceeding six months, shall be confined in the common gaol of the county, where the conviction was had, there to be safely kept until the term of his or her confinement shall have expired, and until fine or fines, and costs of prosecution shall be paid, or until he or she shall be discharged by due course of law.

When to be
received a-
mong the other
prisoners.

2. *And be it enacted*, That every person, sentenced to hard labor and imprisonment as aforesaid, shall be separately washed, cleansed and lodged, and shall continue in such separate lodging, until it shall be certified by some physician, that he or she is fit to be received among the other prisoners; and the clothes, in which the said person shall then be clothed, shall either be burnt, baked, fumigated, or carefully laid by, at the discretion of any two of the inspectors appointed as hereinafter mentioned, until the expiration of the term of confinement of such offender, to be then returned to him or her.

Offenders, how
to be clothed,
fed and em-
ployed.

3. *And be it enacted*, That all such offenders shall, at the expense of the state, during the term of their confinement, be clothed in habits of coarse materials, uniform in color and make, and the males shall have their hair cut short once every month, and their beards close shaven at least once in every week, and all the said offenders shall, during the said term, be sustained upon inferior food, at the discretion of the said inspectors, and shall be kept, as far as may be consistent with their sex, age, health and ability, to labor of the hardest and most servile kind, in which the work is least liable to be spoiled by ignorance, neglect or obstinacy, and where the materials are not easily embezzled or destroyed; and if the work to be performed is of such a nature as may require previous instruction, proper persons for that purpose, to whom a suitable allowance shall be made, shall be provided by order of any two of the said inspectors, during the time of which labor the said offenders shall be kept separate and apart from each other, if the nature of their several employments will admit thereof, and where the nature of such employment requires two or more to work together, the keeper of the said prison, or one of his deputies, shall, if possible, be constantly present.

Hours of la-
bor.

4. *And be it enacted*, That such offender, unless prevented by ill health, shall be employed in work every day in the year, except Sundays, and the hours of work of each day shall be as many as the season of the year will permit, but not exceeding eight hours in the months of November, December, and January, nine hours in the months of February and October, and ten hours in the rest of the year; and when in each day such hours of work are passed, the working tools, implements and materials, or such of them as will admit of daily removal, shall be removed to places proper for their safe custody until the hour of labor shall return.

5. And be it enacted, That the keeper of the said prison shall, from time to time, with the approbation of any two of the inspectors, appointed as hereinafter mentioned, provide a sufficient quantity of stock and materials, working tools and implements for such offenders; for the expense of which, the said inspectors, or any two of them, shall be, and they are hereby authorized to draw orders, to be countersigned by the auditor of the state, on the treasurer of the state, if necessary, specifying in such orders the quantity and nature of the materials, tools or implements wanted; which orders the said treasurer is hereby required to discharge out of the moneys in his hands; for which materials, tools and implements, when received, the said keeper shall be accountable; and the said keeper shall, with the approbation of any two of the said inspectors, have power to make contracts with any persons whatever for the clothing, diet and all other necessaries for the maintenance and support of such offenders, and for the implements and materials of any kind of manufacture, trade or labor, in which such offenders shall be employed, and for the sale of such goods, wares and merchandises, as shall be there wrought and manufactured; and the said keeper shall cause all accounts concerning the maintenance of such offenders to be entered regularly in a book or books, and shall also keep separate accounts of the stock and materials so wrought, manufactured, sold and disposed of, and the moneys for which the same shall be sold, and when sold and to whom, in books to be provided for those purposes; all which books and accounts shall be at all times open for the examination of the said inspectors, and shall be regularly laid before them, at their quarterly or other meetings, as hereinafter is directed, for their approbation and allowance; and an abstract of the expenditures and receipts of moneys, the account of labor, the purchase of raw materials, and sale of articles manufactured, shall be laid before the legislature at their annual meeting, and at such other times as the legislature shall direct and require.*

6. And be it enacted, That if the said inspectors, at their quarterly or other meetings, shall suspect any fraudulent or improper charges, or any omission in any such accounts, they may examine, upon oath or affirmation, the said keeper, or his deputy, or any of his assistants, or servants, or any persons of whom any necessaries, stock, materials, or other things, have been purchased for the use of the said prison, or any persons, to whom any stock or materials, wrought or manufactured therein, have been sold, or any of the offenders confined in such prison, or any other person or persons, concerning any of the articles contained in such accounts, or any omission thereof.

7. And be it enacted, That in order to encourage industry, as an evidence of reformation, separate accounts shall be opened in the said books for all persons sentenced to hard labor and im-

1798.

Stock and materials, working tools and implements, clothing and diet, for offenders, how to be procured.

The keeper of the state-prison to keep an account of the expenditures and receipts of moneys, &c., and lay the same before the legislature.

In what cases it shall be the duty of the inspectors to examine the said keeper, or other persons relative to his accounts.

Separate accounts to be opened against the offenders respectively.

* That part of this section, which directs, that the orders of the inspectors shall be countersigned by the auditor, was repealed the 6th of November, 1798, by the fourth section of the act for the safe keeping of the books and papers of the auditor's office.

1798.

prisonment, in which such persons shall be charged with the expenses of their clothing and subsistence, and such proportionable part of the expenses of the raw materials, upon which they shall be employed, as the inspectors, at their quarterly or other meetings, shall think just, and shall be credited with the sum or sums, from time to time received by reason of their labor, and if the same shall be found to exceed their expenses, one half of the said excess shall be laid out in decent raiment for such persons at their discharge, or otherwise applied to their use and benefit, as the said inspectors shall, upon such occasions, direct; and if such offender, at the end or other determination of his term of confinement, shall labor under any acute or dangerous distemper, he shall not be discharged, unless at his own request, until he can be safely discharged.

What persons shall have access, and how, to the said offenders.

When the doors of the rooms and cells shall be locked and the lights extinguished.

The apartments to be whitewashed twice a year, and the floors washed once a week or oftener.

One or more of the apartments to be fitted up as an infirmary.

8. *And be it enacted*, That no person whatever, except the keeper, his deputy, assistants or servants, the said inspectors, officers and ministers of justice, counsellors or attorneys at law, employed by a prisoner, ministers of the gospel, or persons producing a written license, signed by one of the said inspectors, shall be permitted to enter within the walls, where such offenders shall be confined; and that the doors of all the lodging rooms and cells in the said prison shall be locked, and all lights extinguished at the hour of nine, and one or more watchmen shall patrol the said prison, at least twice in every hour, until the return of time of labor in the morning of the next day.

9. *And be it enacted*, That the walls of the cells and apartments in the said prison, shall be whitewashed with lime and water, at least twice in every year, and the floors of the said cells and apartments shall be washed once every week, or oftener, if the said inspectors shall so direct, by one or more of the said prisoners, in rotation, who, at the discretion of the said keeper, shall have an extra allowance of diet for so doing; and the said prisoners shall be allowed to walk and air themselves for such stated time as their health may require, and the said keeper shall permit; and if proper employment can be found, such prisoners may also be permitted, with the approbation of two of the said inspectors, to work in the yard, provided such working and airing be in the presence or within the view of the said keeper, or his deputy or assistants.

10. *And be it enacted*, That one or more of the apartments in the said prison shall be fitted up as an infirmary; and in case any offender, being sick, shall, upon examination by a physician, be found to require it, he or she shall be removed to the infirmary, and his or her name shall be entered in a book to be kept for that purpose; and when such physician shall report to the said keeper, that the said offender is in a proper condition to quit the infirmary and return to his or her employment, such report shall be entered by the said keeper in a book to be kept for that purpose, and the said keeper shall order him or her back to his or her former labor, so far as the same shall be consistent with his or her state of health.

11. *And be it enacted*, That the keeper of the said prison shall have power to punish all such offenders guilty of assaults within the said prison, when no dangerous wound or bruise is given, profane cursing or swearing, or indecent behaviour, idleness or negligence in work, or wilful mismanagement of it, or disobedience to the orders and regulations herein after directed to be made, by confining such offenders in the cells or dungeons of the said prison, and by keeping them upon bread and water only, for any time not exceeding two days; and if any such prisoner shall be guilty of any offence within the said prison, which the said keeper is not hereby authorized to punish, or for which he shall think the said punishment is not sufficient, by reason of the enormity of the offence, he shall report the same to two of the inspectors, who, if upon inquiry they shall think fit, shall order such offender to be punished by close confinement in the said cells or dungeons, with bread and water for sustenance, for any time not exceeding six days.

1798.

In what case it shall be the duty of the keeper to punish offenders.

12. *And be it enacted*, That it shall be lawful for the said inspectors to appoint a suitable person to be keeper of the said prison, who shall be liable to be removed by the said inspectors, when occasion may require; in which case another shall, from time to time, be appointed in like manner, who shall receive as a full compensation for his services, in lieu of all fees and gratuities, by reason or under color of the said office, so much by the year, as the said inspectors, at the time of appointment, shall direct, to be paid, in quarterly payments, by orders drawn on the treasurer of the state, by any two of the said inspectors; *and also five per centum on the sales of all articles manufactured by the said offenders*; and such keeper shall have power, with the approbation of the inspectors aforesaid, to appoint a deputy, and also a suitable number of assistants, at such reasonable allowances as the said inspectors shall think just and proper; which allowances shall be paid, quarterly, in like manner: and before such keeper shall exercise any part of said office, he shall give bond to the treasurer of the state, with two sufficient sureties, to be approved of by the said treasurer, in the sum of one thousand dollars, upon condition, that he, his deputy, and assistants, shall well and faithfully perform the trusts and duties in them reposed; which bond, the due execution thereof being proved before, and certified by, any one of the justices of the supreme court, or any one of the judges of the county wherein it may be executed, shall be recorded in the office of the secretary of the state, and copies thereof, legally exemplified by the said secretary, shall be legal evidence in all courts of law in any suit against such keeper or his sureties.

Inspectors to appoint a keeper of the state-prison, who shall be allowed an annual salary.

Italic repealed by act, May 30, 1820.

By whom a deputy and assistants shall be appointed.

Keeper to give security to the treasurer before he enters on the duties of his office.

13. Repealed and supplied by act, May 30, 1820.

14. Executed.

15. *And be it enacted*, That the said inspectors, five of whom shall be a quorum, shall meet once in three months, in an apartment to be provided for that purpose in the said prison, and may be specially convened by the two acting inspectors, who shall

Inspectors, when to attend, and their powers and duties.

1798.

See act, May
30, 1820, sec.
11.

The board of
inspectors to
make orders
and regula-
tions for the
government
of the prison.

Penalty on the
keeper, his de-
puty, or assis-
tants, for ob-
structing the
inspectors in
the exercise of
their powers
and duties.

Powers of the
sheriffs and
their deputies
in conveying
offenders to
the state-pri-
son.

Allowance for
taking up of-
fenders who
have escaped.

No spirituous
liquors to be
given or sold
in the prison.

continue such for such time as shall be directed by a majority of said inspectors, when met together; and the acting inspectors shall attend at the said prison, at least once in every week, and shall examine into and inspect the management of said prison, and the conduct of the said keeper, his deputy and assistants, so far as respects the offenders employed at hard labor and the directions of this act, and shall do and perform the several matters and things herein before directed by them to be performed.

16. *And be it enacted*, That the board of inspectors, at their quarterly or other meetings, shall make such orders and regulations for the purpose of carrying this act into execution, and for the good government of the said prison, not repugnant to the laws of the state, as they shall deem necessary; and such orders and regulations shall be hung up in at least six of the most conspicuous places in the said prison; and if the said keeper, his deputy, or any of his assistants, shall obstruct or resist the said inspectors, or any of them, in the exercise of the powers and duties vested in them by this act, such person shall forfeit and pay the sum of thirty dollars, to be recovered by any one of the inspectors, in any court having cognizance of the same, and applied to the use of the said prison, and moreover shall be liable to be removed in manner aforesaid from his office or employment in the said prison.

17. *And be it enacted*, That the sheriffs of the several counties in this state, and their lawful deputies, during the time that they or either of them shall, agreeably to the directions of this act, be employed in conveying to the said prison any person or persons sentenced to hard labor and imprisonment as aforesaid, shall have the same power and authority to secure him, her, or them in any gaol of this state, and to demand the assistance of any sheriff, gaoler, or other person within the state, in securing all such offenders, as if such sheriff were in his own proper county; and all sheriffs, gaolers, and other persons aforesaid, shall be aiding and assisting such sheriff, or his lawful deputy, under the same penalties as if such officer was in his proper county.

18. *And be it enacted*, That any constable or other person, who shall take up and convey to the said prison any offender, who shall escape from his confinement, shall be allowed mileage, going and returning, at the rate of ten cents per mile, and such additional sum as the said inspectors shall think reasonable for the necessary expenses incurred, to be paid by the treasurer of the state, on orders drawn by the said inspectors, or any two of them.

19. *And be it enacted*, That if any keeper or other person whatsoever shall introduce into, or give away, barter or sell, within the said prison, any vinous, spirituous or fermented liquors, excepting only such as the keeper shall make use of in his own family, or such as may be required for any prisoner in a state of ill health, and for such purpose prescribed by an attending physician, and delivered into the hands of such physician, or other person appointed to receive them, every person so offending shall

forfeit and pay the sum of thirty dollars, to be recovered and applied in the manner herein before directed.

1798.

20. *And be it enacted*, That the costs of prosecution against any person, sentenced to hard labor and imprisonment, shall be paid by the inspectors, out of the first moneys arising from the nett profits of the labor of such offenders.

Costs of prosecution against persons sentenced to hard labor, how to be paid.

21. *And be it enacted*, That the inspectors of the said prison shall and may, from time to time, employ a physician to attend said prison, who shall receive a compensation for the services by him to be performed, to be determined by the said inspectors.

Physician to be employed.

22. *And be it enacted*, That when funds shall be in the hands of the inspectors of said prison sufficient to discharge any of the expenses, which are by this act directed to be discharged by the treasurer of the state, it shall and may be lawful for the said inspectors to discharge the said expenses out of any moneys so in their hands, and insert the same in their accounts, to be laid before the legislature.

Funds to be applied for paying expenses.

See supplement, passed 30th May, 1820.

AN ACT for dividing the townships of Newark and Acquackanunck, in the county of Essex, into three separate townships.

PAT. 276.

Passed the 16th of February, 1798.

WHEREAS it hath been represented to the legislature by the petitions of sundry inhabitants of the townships of Newark and Acquackanunck, in the county of Essex, that it would greatly tend to promote the convenience of the said townships, to have the same divided into three separate townships; **THEREFORE—**

Preamble.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the said townships of Newark and Acquackanunck, lying and being within the following limits, to wit, beginning at Cook's bridge, on Passaic river, thence running down the old Canoe brook road, along the Springfield line, until it comes to where said line turns off to Keen's mills, from thence on a straight line to within five chains to the west of Joel Condict's quarry, on the Swinefield road, near the top of the second mountain, thence north, fifteen degrees east, twenty chains along said mountain, thence on a straight line to the top of the first mountain to where a certain road laid out along the line of the lands of Stephen Crane, deceased, intersects the top of said mountain, thence along the top of the same until it comes to the Paterson line, thence along the said line to Passaic river, thence up the middle of the stream the several courses of the same to the place of beginning, to be called and known by the name of, "The township of Caldwell."

Bounds of the new township.

Its name.

1798.

PAT. 276.

AN ACT incorporating the inhabitants of townships, designating their powers, and regulating their meetings.

Passed the 21st of February, 1798.

The inhabitants of every township constituted a body politic.

Names of such corporations in Bergen.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the inhabitants of every township, precinct and ward within this state be, and they hereby are constituted a body politic and corporate in law, by the following names, that is to say,

That the inhabitants of the township of New-Barbadoes, in the county of Bergen, shall be styled and known by the name of, "The inhabitants of the township of New-Barbadoes, in the county of Bergen."

That the inhabitants of the township of Bergen, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Bergen, in the county of Bergen."

That the inhabitants of the township of Hackinsack, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hackinsack, in the county of Bergen."

That the inhabitants of the township of Harrington, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Harrington, in the county of Bergen."

That the inhabitants of the township of Saddle-River, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Saddle-River, in the county of Bergen."

That the inhabitants of the township of Franklin, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Franklin, in the county of Bergen."

That the inhabitants of the township of Pompton, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Pompton, in the county of Bergen."

In Essex.

That the inhabitants of the township of Newark, in the county of Essex, shall be styled and known by the name of, "The inhabitants of the township of Newark, in the county of Essex."

That the inhabitants of the township of Acquackanunck, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Acquackanunck, in the county of Essex."

That the inhabitants of the township of Elizabeth, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Elizabeth, in the county of Essex."

That the inhabitants of the township of Springfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Springfield, in the county of Essex."

That the inhabitants of the township of Westfield, in the said

county, shall be styled and known by the name of, "The inhabitants of the township of Westfield, in the county of Essex."

1798.

That the inhabitants of the township of Caldwell, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Caldwell, in the county of Essex."

That the inhabitants of the North Ward of Perth-Amboy, in the county of Middlesex, shall be styled and known by the name of, "The inhabitants of the township of Perth-Amboy, in the county of Middlesex."

In Middlesex.

That the inhabitants of the South Ward of Perth-Amboy, in the said county, shall be styled and known by the name of, "The inhabitants of the township of South-Amboy, in the county of Middlesex."

That the inhabitants of the township of Woodbridge, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Woodbridge, in the county of Middlesex."

That the inhabitants of the township of Piscataway, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Piscataway, in the county of Middlesex."

That the inhabitants of the North Ward of New-Brunswick, in the said county, shall be styled and known by the name of, "The inhabitants of the township of North Brunswick, in the county of Middlesex."

That the inhabitants of the South Ward of New-Brunswick, in the said county, shall be styled and known by the name of, "The inhabitants of the township of South Brunswick, in the county of Middlesex."

That the inhabitants of the township of East-Windsor, in the said county, shall be styled and known by the name of, "The inhabitants of the township of East-Windsor, in the county of Middlesex."

That the inhabitants of the township of West-Windsor, in the said county, shall be styled and known by the name of, "The inhabitants of the township of West-Windsor, in the county of Middlesex."

That the inhabitants of the township of Middletown, in the county of Monmouth, shall be styled and known by the name of, "The inhabitants of the township of Middletown, in the county of Monmouth."

In Monmouth.

That the inhabitants of the township of Shrewsbury, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Shrewsbury, in the county of Monmouth."

That the inhabitants of the township of Freehold, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Freehold, in the county of Monmouth."

1798.

That the inhabitants of the township of Upper-Freehold, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Upper-Freehold, in the county of Monmouth."

That the inhabitants of the township of Stafford, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Stafford, in the county of Monmouth."

That the inhabitants of the township of Dover, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Dover, in the county of Monmouth."

In Somerset.

That the inhabitants of the Eastern Precinct, in the county of Somerset, shall be styled and known by the name of, "The inhabitants of the township of Franklin, in the county of Somerset."

That the inhabitants of the Western Precinct, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Montgomery, in the county of Somerset."

That the inhabitants of the township of Bridgewater, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Bridgewater, in the county of Somerset."

That the inhabitants of the township of Bedminster, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Bedminster, in the county of Somerset."

That the inhabitants of the township of Bernard, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Bernard, in the county of Somerset."

That the inhabitants of the township of Hillsborough, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hillsborough, in the county of Somerset."

In Burlington.

That the inhabitants of the township of Burlington, in the county of Burlington, shall be styled and known by the name of, "The inhabitants of the township of Burlington, in the county of Burlington."

That the inhabitants of the township of Chesterfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Chesterfield, in the county of Burlington."

That the inhabitants of the township of Nottingham, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Nottingham, in the county of Burlington."

That the inhabitants of the township of Little Egg-Harbor, in the said county, shall be styled and known by the name of, "The

inhabitants of the township of Little Egg-Harbor, in the county of Burlington."

1798.

That the inhabitants of the township of Evesham, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Evesham, in the county of Burlington."

That the inhabitants of the township of New-Hanover, in the said county, shall be styled and known by the name of, "The inhabitants of the township of New-Hanover, in the county of Burlington."

That the inhabitants of the township of Chester, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Chester, in the county of Burlington."

That the inhabitants of the township of Springfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Springfield, in the county of Burlington."

That the inhabitants of the township of Northampton, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Northampton, in the county of Burlington."

That the inhabitants of the township of Mansfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Mansfield, in the county of Burlington."

That the inhabitants of the township of Willingborough, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Willingborough, in the county of Burlington."

That the inhabitants of the township of Gloucester, in the county of Gloucester, shall be styled and known by the name of, "The inhabitants of the township of Gloucester, in the county of Gloucester."

That the inhabitants of Gloucester town, in the said county, shall be styled and known by the name of, "The inhabitants of Gloucester town, in the county of Gloucester."

That the inhabitants of the township of Waterford, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Waterford, in the county of Gloucester."

That the inhabitants of the township of Newton, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Newton, in the county of Gloucester."

That the inhabitants of the township of Deptford, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Deptford, in the county of Gloucester."

That the inhabitants of the township of Greenwich, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Greenwich, in the county of Gloucester."

That the inhabitants of the township of Woolwich, in the said county, shall be styled and known by the name of, "The inha-

1798. bitants of the township of Woolwich, in the county of Gloucester."

That the inhabitants of the township of Egg-Harbor, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Egg-Harbor, in the county of Gloucester."

That the inhabitants of the township of Galloway, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Galloway, in the county of Gloucester."

That the inhabitants of the township of Weymouth, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Weymouth, in the county of Gloucester."

In Salem.

That the inhabitants of the township of Mannington, in the county of Salem, shall be styled and known by the name of, "The inhabitants of the township of Mannington, in the county of Salem."

That the inhabitants of the township of Salem, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Salem, in the county of Salem."

That the inhabitants of the township of Elsingborough, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Elsingborough, in the county of Salem."

That the inhabitants of the township of Lower Alloway's Creek, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Lower Alloway's Creek, in the county of Salem."

That the inhabitants of the township of Upper Alloway's Creek, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Upper Alloway's Creek, in the county of Salem."

That the inhabitants of the township of Pittsgrove, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Pittsgrove, in the county of Salem."

That the inhabitants of the township of Pilesgrove, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Pilesgrove, in the county of Salem."

That the inhabitants of the township of Upper Penn's Neck, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Upper Penn's Neck, in the county of Salem."

That the inhabitants of the township of Lower Penn's Neck, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Lower Penn's Neck, in the county of Salem."

In Cape-May.

That the inhabitants of the Upper Precinct, in the county of Cape-May, shall be styled and known by the name of, "The inhabitants of the Upper Township, in the county of Cape-May."

That the inhabitants of the Lower Precinct, in the said county, shall be styled and known by the name of, "The inhabitants of the Lower Township, in the county of Cape-May."

1798.

That the inhabitants of the Middle Precinct, in the said county, shall be styled and known by the name of, "The inhabitants of the Middle Township, in the county of Cape-May."

That the inhabitants of the township of Trenton, in the county of Hunterdon, shall be styled and known by the name of, "The inhabitants of the township of Trenton, in the county of Hunterdon."

In Hunterdon.

Maidenhead, repealed and supplied by act, May 22, 1820, Lawrence.

That the inhabitants of the township of Hopewell, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hopewell, in the county of Hunterdon."

That the inhabitants of the township of Amwell, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Amwell, in the county of Hunterdon."

That the inhabitants of the township of Readington, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Readington, in the county of Hunterdon."

That the inhabitants of the township of Kingwood, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Kingwood, in the county of Hunterdon."

That the inhabitants of the township of Bethlehem, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Bethlehem, in the county of Hunterdon."

That the inhabitants of the township of Alexandria, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Alexandria, in the county of Hunterdon."

That the inhabitants of the township of Lebanon, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Lebanon, in the county of Hunterdon."

That the inhabitants of the township of Tewksbury, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Tewksbury, in the county of Hunterdon."

That the inhabitants of the township of Morris, in the county of Morris, shall be styled and known by the name of, "The inhabitants of the township of Morris, in the county of Morris."

In Morris.

That the inhabitants of the township of Hanover, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hanover, in the county of Morris."

1798.

That the inhabitants of the township of Pequannock, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Pequannock, in the county of Morris."

That the inhabitants of the township of Mendham, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Mendham, in the county of Morris."

That the inhabitants of the township of Roxbury, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Roxbury, in the county of Morris."

That the inhabitants of the township of Washington, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Washington, in the county of Morris."

In Cumberland.

That the inhabitants of the precinct of Greenwich, in the county of Cumberland, shall be styled and known by the name of, "The inhabitants of the township of Greenwich, in the county of Cumberland."

That the inhabitants of the precinct of Hopewell, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hopewell, in the county of Cumberland."

That the inhabitants of the precinct of Stow Creek, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Stow Creek, in the county of Cumberland."

That the inhabitants of the precinct of Fairfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Fairfield, in the county of Cumberland."

That the inhabitants of the precinct of Deerfield, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Deerfield, in the county of Cumberland."

That the inhabitants of the precinct of Maurice River, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Maurice River, in the county of Cumberland."

That the inhabitants of the township of Downe, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Downe, in the county of Cumberland."

In Sussex.

That the inhabitants of the precinct of Greenwich, in the county of Sussex, shall be styled and known by the name of, "The inhabitants of the township of Greenwich, in the county of Sussex."

That the inhabitants of the precinct of Oxford, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Oxford, in the county of Sussex."

That the inhabitants of the precinct of Mansfield, in the said

county, shall be styled and known by the name of, "The inhabitants of the township of Mansfield, in the county of Sussex."

1798.

That the inhabitants of the precinct of Knowlton, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Knowlton, in the county of Sussex."

That the inhabitants of the precinct of Sandyston, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Sandyston, in the county of Sussex."

That the inhabitants of the precinct of Wantage, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Wantage, in the county of Sussex."

That the inhabitants of the precinct of Hardyston, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hardyston, in the county of Sussex."

That the inhabitants of the precinct of Montague, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Montague, in the county of Sussex."

That the inhabitants of the precinct of Walpack, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Walpack, in the county of Sussex."

That the inhabitants of the precinct of Newton, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Newton, in the county of Sussex."

That the inhabitants of the precinct of Hardwick, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Hardwick, in the county of Sussex."

That the inhabitants of the township of Independence, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Independence, in the county of Sussex."

That the inhabitants of the township of Vernon, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Vernon, in the county of Sussex."

That the inhabitants of the township of Byram, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Byram, in the county of Sussex."

That the inhabitants of the township of Frankford, in the said county, shall be styled and known by the name of, "The inhabitants of the township of Frankford, in the county of Sussex."

2. *And be it enacted*, That when any suit shall be instituted against any township, a copy of the summons, precept, or such other legal process as may be issued against the said township, shall be left with the clerk thereof thirty days at least before the session of the court to which the same shall be returnable.

Process against a township, how to be served.

3. *And be it enacted*, That the freeholders and inhabitants, who are or shall be qualified by law to vote at town-meetings, shall have full power, and they are hereby directed and required, to assemble and hold town-meetings in the respective townships, in the counties of Burlington, Monmouth, Salem, Cumberland

Town-meetings, when to be held,

1798.

and Cape-May, on the second Tuesday in March, annually; in the respective townships, in the counties of Bergen, Essex, Somerset, Middlesex, Hunterdon, Morris and Sussex, on the second Monday in April, annually, and in the respective townships, in the county of Gloucester, on the second Wednesday in March, annually.

and where.

4. *And be it enacted,* That the first town-meeting, in each of the said townships, after the passing of this act, shall be held at the place, in the respective townships, where such meeting in the same ought to have been held, if this act had not been made; and that all town-meetings thereafter shall be held at such place in the townships respectively, as the electors of such township, at their annual town-meetings, shall from time to time direct and appoint.

What persons
entitled to
vote at town-
meetings.

5. *And be it enacted,* That every white male person, being a citizen of this state and of the age of twenty-one years, who shall have resided in any township six calendar months next preceding such town-meeting, and paid taxes within the same, or who shall be seized of a freehold, or shall have rented a tenement of the yearly value of five dollars, for the term of one year, within the same, shall be entitled to vote at such meeting, and no other person.

Electors to
choose some
fit person to
preside at such
meetings.

6. *And be it enacted,* That between the hours of eleven and twelve of the day of holding the town-meetings in the several townships of this state, the electors of every township, so assembled, shall choose, by plurality of votes, some fit person to preside at and superintend such meeting, who shall take care that the business thereof be conducted in a regular and orderly manner, and shall, in case of dispute, determine, who have and who have not a right to vote at such meeting according to law.

Penalty for
disorderly be-
haviour at
town-meet-
ings.

7. *And be it enacted,* That no person shall behave in a disorderly manner, or interrupt the person speaking at any town-meeting by unnecessary noise or conversation; and if any person shall, after notice from the presiding officer, persist in his disorderly behaviour, then it shall be lawful for the said presiding officer to direct such disorderly person to withdraw from the meeting, and moreover, such person shall forfeit one dollar for such offence; and such disorderly person, if he refuse or neglect to withdraw, shall, by direction of the said presiding officer, be carried out of the meeting by some of the constables of the said township, and put into a place of confinement, where he shall be detained until such meeting shall be ended: *And further,* That the fines specified in this section, shall be sued for, and may be recovered, with costs, by action of debt, in the name of the clerk of the township, before any justice of the peace of the said county; and that any elector or inhabitant of the said township shall be admitted as a witness in support of such action, notwithstanding his being a member of such corporation, or interested in the appropriation of the said fine in manner aforesaid.

Town-meet-
ings may make
by-law.

8. *And be it enacted,* That the persons, qualified to vote at town-meetings, shall, at their annual meetings, or at any other

1798.

meeting duly held for that purpose, make and ordain such regulations and by-laws, as the majority of them, so assembled, shall, from time to time, judge necessary or proper, for improving their common lands in tillage, pasturage, or any other way, and directing the use and management, and the times and manner of using their common lands, for making and maintaining such and so many pounds, and at such places as may be necessary or convenient, and to impose such penalties on the offenders against such regulations and by-laws, as they shall deem expedient, not exceeding twelve dollars for each offence, to be recovered, with costs of suit, by and in the name of the clerk of the township, where the offence shall be committed, by action of debt, before any justice of the peace or any other competent authority, in any other township in the said county, or elsewhere; and no such action shall be abated or discontinued by the death or expiration of the office of the said clerk, but may be continued and prosecuted to effect by his successor in office; and all such penalties, when recovered, shall be applied to the use of the township where the offence shall have been committed, in such manner and for such purposes, as, at their town-meetings, shall, from time to time, be directed and appointed.

9. *And be it enacted*, That all such regulations and by-laws shall be entered and recorded by the clerk of such township, in a book by him to be provided for that purpose, and shall remain and be in force until the same shall be revoked or altered, or new made and ordained at some subsequent town-meeting; all which alterations, new regulations, and by-laws shall also, from time to time, be entered and recorded as aforesaid, and shall continue in force until revoked, altered, or made and ordained anew, as aforesaid.

By-laws to be recorded by the clerk.

10. *And be it enacted*, That the persons, qualified to vote at town-meetings, are hereby authorized, at their annual meetings, or any other meeting duly held for that purpose, to make such provisions and allow such rewards for the destruction of wolves, wild-cats, foxes, crows, black-birds, and other noxious wild animals and birds, as they or the major part of them, so assembled, shall deem necessary or proper.

Town-meetings may make provision for destroying noxious animals and birds.

11. *And be it enacted*, That the persons, qualified to vote at town-meetings, shall be and they are hereby empowered, at their annual meetings, or at any other meeting duly held for the purpose, to vote, grant, and raise such sum or sums of money for the maintenance and support of the poor, the building and repairing of pounds, the opening, making, working and repairing of roads, and keeping them in order, in such townships, as are authorized to repair their highways by hire, the destruction of noxious wild animals and birds, for running and ascertaining the lines, and prosecuting or defending the common rights of such township, and for other necessary charges, and legal objects and purposes thereof, as they, or the major part of them, so assembled, shall deem proper or necessary; which money, so voted and granted, shall be assessed, levied and collected by the same persons, in the same manner, and under the like fees, fines and penalties, as

For what purposes town-meetings may grant and raise money.

See sec. 8, act May 23, 1820.

1798.

the money raised in such township by the board of chosen freeholders of the county shall be assessed, levied and collected, and at such times and in such proportions as the said town-meetings respectively shall direct and appoint. *Provided*, That the said fines and penalties shall, when recovered, be paid to the clerk of the said township, and be applied to the use of the said township, in such manner as shall, from time to time, be directed and appointed at their annual meeting.

What officers
to be elected
at town-meet-
ings.

12. *And be it enacted*, That the persons, qualified to vote at town-meetings, shall have full power and authority, at their respective annual meetings, to elect, for such township, by a majority of votes, one clerk, one or more assessor or assessors, provided no such township shall be thereby entitled to more than one vote in the board of assessors of the county, one or more collector or collectors, three or more judicious freeholders of good character to hear and finally determine all appeals relative to unjust assessments in cases of taxation, two freeholders, commonly called chosen freeholders, two surveyors of the highways, one or more overseer or overseers of the poor, one or more constable or constables, and so many overseers of the highways and pound-keepers as they shall deem necessary or convenient, and one reputable freeholder as a judge of elections; which said several officers shall hold their respective offices for one year, and until others shall be chosen and legally qualified in their stead; and that in addition to the before mentioned officers, the electors of every corporation, at their respective annual meetings as aforesaid, shall have full power and authority to elect five judicious freeholders, resident within the township, who shall be denominated the township committee, a majority of whom shall be a quorum, and shall continue in office one year, and until others are chosen in their stead; which committee shall have authority, and it is hereby rendered their duty, to examine, inspect, and report to the annual or other town-meetings the accounts and vouchers of the township officers, and to superintend the expenditure of any moneys raised by tax for the use of the township, or which may arise from the balance of the accounts of any of the township officers.

In case of the
death, removal,
&c., of any
officer, electors
to be convened,
and choose another.

13. *And be it enacted*, That if any township shall neglect, at their annual town-meeting, to choose any of the officers directed by law to be chosen, or if any of the officers, so chosen in any township, shall refuse to serve, or die, or remove out of the said township, or become incapable of serving before the next annual meeting, then it shall be lawful for the persons qualified to vote at town-meetings to assemble together, from time to time, and hold town-meetings for the purpose of supplying such vacancies; and in case of neglect of the electors, for fifteen days after such omission, to choose, or after the death, removal, refusal to serve, or inability of any township officer, the township committee shall, by writing under their hands and seals, appoint a person to fill such vacancy until the next annual town-meeting.

The clerk to
give notice of

14. *And be it enacted*, That the clerk of the township, upon notice of any such omission, refusal, removal, incapacity, or

death, or if the office of clerk be vacant, then any justice of the peace of the county, residing in the said township, upon notice thereof, shall give notice, in the manner mentioned in the following section, of a town-meeting to be held in the same township, for the purpose aforesaid.

1798.

such death, &c., and of the time of electing another.

15. *And be it enacted*, That whenever it shall be necessary, in the opinion of the township committee, to hold a town-meeting for any of the purposes specified in this or any other act, at any time between the annual meetings, it shall be the duty of the clerk of such township, to give notice thereof in writing, under his hand, mentioning the time, place, and object or purpose of such meeting, to be fixed up at four or more of the most public places in the said township, at least eight days before the time therein appointed for holding such meeting.

Mode of calling special town-meetings.

16. *And be it enacted*, That the clerk of every township shall enter, in a book to be kept for the purpose, the names of the persons and the offices to which they are elected at town-meetings, and the proceedings of such meetings; which shall be signed by the presiding officer of the meeting, and attested by the clerk.

Proceedings of town-meetings to be entered in a book.

17. *And be it enacted*, That the clerk of such township shall, within ten days after every election, transmit to the clerk of the court of common pleas of the county, a certified list of the names of the persons, and the respective offices to which they are elected; and shall, within five days after the said election, set up fair and true copies of such list, in three or more of the most public places in such township, which shall be considered as sufficient notice to the said persons, of their being elected to the said offices respectively.

List of the names of town officers to be sent to the clerk of the court of common pleas; and also to be set up in three of the most public places.

18. *And be it enacted*, That if the appointment to office is made by the township committee, in the manner prescribed by law, then it shall be the duty of the said committee to give personal notice to, or cause notice in writing to be left at the place of abode of the person so appointed, of such his appointment, within five days after the same; and also, within the said time, to transmit an account of such appointments to the clerk of the said court of common pleas.

Appointment of officers to be made by town committee, how notice to be given.

19. *And be it enacted*, That every clerk of the township, surveyor of the highways, assessor, freeholder on appeals in cases of taxation, overseer of the poor, and constable, hereafter elected or appointed as aforesaid, shall, before he enters upon the execution of his office, and within six days after notice of such election or appointment, take and subscribe an oath or affirmation before some justice of the peace, residing in or near the said township, in the form herein after prescribed; that is to say, every clerk shall take and subscribe an oath or affirmation in the following form; to wit,

Clerks, surveyors, freeholders on appeals, overseers of the poor, and constables, to take an oath of office.

I clerk of the township of in the county of
do solemnly and sincerely promise and swear, (or affirm) that I will faithfully and honestly keep all the papers, writings, books and records, by virtue of my office committed, and which, from time to time, shall be committed to me; and that I

Form of oath to be taken by the clerk.

1798.

will, in all things, to the best of my knowledge and understanding, perform the duties of said office of clerk, without favor or partiality.

And every surveyor of the highways shall take and subscribe an oath or affirmation in the following form; to wit,

By the surveyor.

I do solemnly and sincerely promise and swear, (or affirm) that I will, in all things, to the best of my knowledge and understanding, well, justly, and faithfully execute the office of a surveyor of the highways, without favor or partiality.

And every assessor shall take and subscribe an oath or affirmation in the following form; to wit,

By the assessor.

I do solemnly and sincerely promise and swear, (or affirm) that I will truly, faithfully, honestly, and impartially value and assess the ratable estates in the township of in the county of and that, in making such valuations and assessments, I will, to the best of my knowledge and judgment, observe the directions of the law respecting the same.

And every freeholder, to hear and determine appeals relative to unjust assessments in cases of taxation, shall take and subscribe an oath or affirmation in the following form; to wit,

By commissioner of appeal.

I do solemnly and sincerely promise and swear, (or affirm) that I will well, truly, and faithfully execute the trust reposed in me, and perform my duty, as a commissioner of appeals in cases of taxation, for the township of in the county of according to the best of my knowledge and understanding, without favor or partiality.

And every overseer of the poor shall take and subscribe an oath or affirmation in the following form; to wit,

By the overseer of the poor.

I do solemnly and sincerely promise and swear, (or affirm) that I will, in all things, to the best of my knowledge and understanding, well and faithfully execute the trust reposed in me, as an overseer of the poor of the township of in the county of

And every constable shall take and subscribe an oath or affirmation in the words following; to wit,

By the constable.

I do solemnly and sincerely promise and swear, (or affirm) that I will well and truly serve the state of New-Jersey in the office of constable for the township of in the county of ; that I will honestly and impartially summon, empannel and return good and lawful men for juries, able and sufficient, and not suspected or procured, as is or shall be directed by law; that I will, to the utmost of my power, faithfully, and without delay, execute all writs, precepts, process, warrants and executions to me directed, and which shall come to my hands, and truly return the same; that, in the exercise of my office, I will do no wrong to any, but will do right to all, and take none but lawful fees; that I will truly, diligently, and honestly, without fraud, deceit, oppression, favor or partiality, do, execute and perform all services, acts and duties of my said office, to the best of my knowledge, judgment, and ability.

20. *And be it enacted*, That every justice of the peace, before whom such oath or affirmation shall be taken and subscribed, shall, without fee or reward, certify, under the said writing, the day and year, when such oath or affirmation was taken, and subscribe his name thereto, and then deliver the said certificate to the officer taking such oath or affirmation, who shall, within six days thereafter, transmit or deliver such certificate to the clerk of the township, for which such officer was elected or appointed, who shall file the same.

1798.

Such oath, if certified, shall be sent to the township clerk, who shall file the same.

21. *And be it enacted*, That if any clerk, surveyor, assessor, commissioner of appeals, overseer of the poor, or constable, shall not take and subscribe such oath or affirmation as aforesaid, or shall not transmit or deliver the same to the clerk as aforesaid, within the time hereby limited, or if any officer, elected, or appointed as aforesaid, shall not give such security as is or shall be by law required, within the time for that purpose limited; then, and in every such case, such neglect shall be deemed a refusal to serve in such office; and the township, in which such officer was chosen, or township committee, who appointed him, as the case shall require, may thereupon proceed to a new election or appointment.

Neglect to take oath, &c., or to give security, shall be deemed a refusal to serve.

22. *And be it enacted*, That if any person hereafter elected or appointed a clerk, surveyor, assessor, collector, commissioner of appeals, chosen freeholder, overseer of the poor, constable, overseer of the highways, or pound-keeper as aforesaid, shall refuse to accept or serve in such office, or if any such clerk, surveyor, assessor, commissioner of appeals, overseer of the poor, or constable, shall proceed in the execution of such office, before he shall have taken and subscribed such oath or affirmation as aforesaid, or if any officer, so elected or appointed, shall proceed in the execution of his office, before he shall have given such security, as is or shall be required by law, then every person, so neglecting or refusing, or doing, shall forfeit fifteen dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, in the name and for the use of the inhabitants of the township, in and for which such officer was elected or appointed.

Penalty on any officer refusing to serve, &c.

23. *And be it enacted*, That upon the death, or expiration of the office of clerk of any township, all the papers, writings, books and records, belonging to the said office, shall be delivered to the successor in office, on the oath or affirmation of the preceding clerk, or in case of his death, on the oath or affirmation of his executors or administrators; and if any such clerk, his executors or administrators, shall refuse or neglect to deliver the same, on oath or affirmation as aforesaid, being lawfully demanded, then every such person shall forfeit sixty dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum, in the name and for the use of the inhabitants of the said township.

On the death or expiration of the office of clerk, the books and papers to be delivered to his successor.

24. *And be it enacted*, That it shall be the duty of the presiding officer at every town-meeting, immediately after his election, and

Seventh section of this act to be read at town-meetings.

1798

1798.

1798.

845

Shir, to cause the seventh section of this act to be
persons then assembled.

it enacted, That all and every act and acts, and
es, part and parts of any act or acts heretofore
within the purview of this act, be, and they
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upplement, passed 22d May, 1820.

of, in certain cases, against collusive judg-
wrongful alienations of lands.

Passed the 2d of March, 1798.

*Council and General Assembly of
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5. *And be it enacted*, That if in any suit against the husband and wife, for lands of the wife, the husband absent himself, or will not defend his wife's right, or against the wife's consent will render the said lands, then the wife may come at any time before judgment, and defend her right, without her husband.

6. *And be it enacted*, That no feoffment, fine, or other act or acts, which shall be made, suffered, or done by the husband only, of any lands, tenements or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall work any discontinuance thereof or prejudice or affect the said wife or her heirs, or such as shall, by her death, have right, title, or interest to the same; but the said wife, or her heirs, or such other person, to whom such right shall appertain after her decease, may, after the death of the said husband, lawfully enter into such lands, tenements and hereditaments, and hold and enjoy the same according to his, her, or their rights and titles therein; any such feoffment, fine, or other act or acts to the contrary notwithstanding.

7. *And be it enacted*, That if any woman, who hath or shall have an estate in dower, or for term of life, jointly with her husband, or only to herself, or to her use, in lands, tenements, or hereditaments, of the inheritance or purchase of her husband, or given to the husband and wife for term of life, by any ancestor of the husband, or by any other person, seized to the use of the husband or of his ancestors, shall, when sole, discontinue, or alien the same, with or without warranty, or shall suffer any recovery thereof by covin against her, them, or any of them, or any other seized to their use, or to the use of any of them as aforesaid, then all such discontinuances, alienations, and recoveries shall be utterly void and of no effect; and it shall be lawful for the person, to whom, after the decease of such woman, the interest, title, or inheritance of the said lands, tenements, or hereditaments, do or shall belong, immediately after such discontinuance, alienation, or recovery, to enter upon, possess, and enjoy the said lands, tenements, or hereditaments, according to such title and interest, as the said person should have had in the same, if such woman had been dead, and no discontinuance, alienation, or recovery had been made or suffered.

8. *And be it enacted*, That if any woman, who hath or shall have an estate in dower, or for term of life jointly with her husband, or only to herself, or to her use, in lands, tenements, or hereditaments, of the inheritance or purchase of her husband, or given to the husband and wife for life, by any ancestor of the husband, or by any other person, seized to the use of the husband or of his ancestors, shall, with any after taken husband, make or suffer any such discontinuance, alienation, or recovery, as is mentioned in the preceding section, then it shall be lawful for the person, to whom, after the decease of the said woman, the said lands, tenements, or hereditaments, do or shall belong, to enter, immediately after such discontinuance, alienation, or recovery, into the said lands, tenements, or hereditaments, and them to possess and enjoy during the life of such husband, ac-

1798.

Feme covert may, in certain cases, defend her right, without her husband.

Conveyance by a husband alone, of his wife's lands, not to prejudice her or her heirs.

Alienations by a woman, when sole, of her dower, or estate for life in lands of her husband, and recoveries of the same by covin, to be void.

If a woman, with any subsequent husband, make such alienation or recovery, then the person to whom the inheritance belongs may immediately enter.

1798.

But the woman, if she survive, may re-enter.

This act not to extend to any recovery with the assent of the heir or reversioner.

Conveyances, made by such woman for the term of her life, good.

Alienation by tenant by the curtesy not to bar the issue of the inheritance of their mother.

In such case non-age not to delay suits brought by the woman or her heirs

The reversioner or remainder-man may have writ of error on judgment against tenant for life, in dower, or by curtesy.

But if the first judgment was by covin, restitution shall be made to the plaintiff in error.

According to such title and interest, as the said person should have had in the same, if such woman had been dead, and no discontinuance, alienation, or recovery had been made or suffered; but in such case the said woman may, if she survive such after taken husband, enter into, possess, and enjoy the said lands, tenements, or hereditaments according to her first estate in the same.

9. *Provided always, and be it further enacted*, That this act shall not extend to any recovery or discontinuance, which shall be suffered or made with the heirs next inheritable to the said woman, or where the person or persons, who next after her death should have an estate of inheritance in the said lands, tenements or hereditaments, shall assent or agree to the said recovery, if such assent or agreement be of record: *And provided also*, That it shall be lawful for every such woman, being sole or married, after the death of her first husband, to give, sell, or make discontinuance of such lands, tenements, or hereditaments, for term of her life only, after the course of the common law.

10. *And be it enacted*, That if a man shall alien any lands or tenements, which he may hold by the curtesy, neither his children, nor the issue of his children, shall be barred, by his deed, from recovering the same of the seizin of their mother, although in such deed of their father there be a clause, that he and his heirs are bound to warranty; and in like manner, the heirs of the wife shall not, after the death of their father and mother, be barred, by the deed of their father, from recovering the inheritance of their mother, which he aliened in her life-time.

11. *And be it enacted*, That the suit of the woman, or his heirs, after the death of her husband, for lands or tenements aliened by the husband, shall not be delayed by the non-age of the heir or heirs, who ought to warrant.

12. *And be it enacted*, That if tenant for term of life, or in dower, or by the curtesy, be impleaded, and judgment given against him or her for the lands or tenements, then the person or persons, to whom the reversion or remainder of the same belongs, at the time of such judgment, his, her or their heirs, or successors, may have writ of error, if error be found in the record of such judgment, as well in the life-time of the said tenant, as after his or her death; and if such judgment be reversed, the tenant, if living, shall be restored to his or her possession of the said lands or tenements, and the party prosecuting such writ of error to the arrearages of rent for the same; and if such tenant be dead at the time of the judgment given on such writ of error, then restitution of the said lands or tenements shall be made to the party prosecuting the said writ, together with the arrearages of rent. *Provided always*, That if the party prosecuting the said writ of error allege, that the judgment first obtained against such tenant was by covin or assent, then restitution shall be made to the party prosecuting the said writ, with arrearages, although the said tenant be living; but in such case, the said tenant may have a scire facias against the party plaintiff in error, if he will deny and traverse the covin or assent aforesaid, and not otherwise.

AN ACT concerning forcible entries and detainers.

1798.

Passed the 2d of March, 1798.

PAT. 290.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That no person shall enter upon or into any lands, tenements, or other possessions, and detain or hold the same, but where entry is given by law, and then only in a peaceable manner.

No entry to be made on lands, but where it is lawful, and then peaceably.

2. *And be it enacted,* That if any person shall enter upon or into any lands, tenements or other possessions, and detain or hold the same with force or strong hand, or with weapons, or by breaking open the doors, windows, or other part of a house, whether any person be in it or not, or by any kind of violence whatsoever, or by threatening to kill, maim, or beat the party in possession, or by such words, circumstances or actions, as have a natural tendency to excite fear or apprehension of danger, or by putting out of doors, or carrying away the goods of the party in possession, or by entering peaceably and then turning by force, or frightening by threats, or other circumstances of terror, the party out of possession; in such case, every person, so offending, shall be guilty of a forcible entry and detainer within the meaning of this act.

What shall be a forcible entry and detainer.

3. *And be it enacted,* That no person, who shall lawfully or peaceably enter upon or into any lands, tenements or other possessions, shall hold or keep the same unlawfully, and with force, or strong hand, or weapons, or violence, or menaces, or terrifying words, circumstances or actions aforesaid; and it is hereby declared, that whatever words or circumstances, conduct or actions, will make an entry forcible under this act, shall also make a detainer forcible.

What shall be a forcible detainer.

4. *And be it enacted,* That the three preceding sections of this act shall extend to and comprehend terms for years, and all estates, whether freehold or less than freehold.

This act to extend to all estates of freehold or less than freehold.

5. *And be it enacted,* That if any tenant or tenants for term of life or lives, year or years, or other person or persons, who are or shall be in possession of any lands, tenements or hereditaments, by, from, or under, or by collusion with such tenant or tenants, shall, wilfully, and without force, hold over any lands, tenements or hereditaments, after demand and notice in writing given for the delivery of the possession thereof, by his, her or their landlord or landlords, lessor or lessors, or the person or persons, to whom the remainder, or reversion of such lands, tenements or hereditaments shall belong, his, her or their agent or attorney, thereunto lawfully authorized, then such person or persons, so holding over, shall be guilty of an unlawful detainer.

What shall constitute an unlawful detainer, without force.

6. *And be it enacted,* That the aforesaid forcible entries and detainers, forcible detainers, and unlawful detainers, are hereby made cognizable before any justice of the peace of the county, in which they are committed.

All such entries and detainers cognizable before a justice of the peace:

7. *And be it enacted,* That when complaint to any justice of

1798.

The justice, on
complaint, to
issue process.

the peace of the proper county shall be made in writing, and signed by the party grieved, his agent or attorney, specifying the lands, tenements or other possessions, so forcibly entered upon and detained, or forcibly, or unlawfully detained, by whom and when done, and the estate therein, it shall be the duty of the said justice to issue a precept, under his hand and seal, directed to the sheriff of the said county, commanding him to cause to come before the said justice, twelve good and lawful men of the said county, qualified to serve as petit jurors in the court of general quarter-sessions of the peace, to inquire into and try such forcible entry and detainer, or forcible, or unlawful detainer; which precept shall be in the form or to the effect following; that is to say,

Form of such
process.

county, to wit: The state of New-Jersey to our sheriff of our county of greeting: Whereas complaint in writing is made to the subscriber, A. B. one of our justices of the peace in and for our said county, of a certain forcible entry and detainer (or if detainer only, then say, of a certain forcible detainer, or, of a certain unlawful detainer) made by E. F. into the messuage (or upon the lands) of C. D. in the county aforesaid; we therefore command you, that you cause to come before the said A. B. at in the county aforesaid, at the hour of in the noon of the day of twelve good and lawful men of the body of your county, being citizens of this state and resident within the county, above the age of twenty-one and under the age of sixty-five, and who have a freehold in lands, messuages or tenements in the said county, and are in no wise of kin to the said C. D. or E. F. to make a jury of the country, to inquire of and try the said forcible entry and detainer (or forcible or unlawful detainer.) Given under the hand and seal of the said A. B. the day of in the year of our Lord, one thousand

The justice to
issue a sum-
mons to the
party.

8. *And be it enacted*, That the said justices shall issue a summons to the party complained against, in the words or to the effect following; that is to say,

Form of such
summons.

county, to wit: The state of New-Jersey to our sheriff of our county of greeting: We command you, that you summon E. F. of to appear before A. B. one of our justices of the peace in and for our said county, at in the county aforesaid, at the hour of in the noon of the day of to answer to and make defence against the complaint of C. D. of a forcible entry and detainer (or if detainer only, then say, of a forcible detainer, or of an unlawful detainer) made by the said E. F. into the messuage (or upon the lands) of the said C. D. in the county aforesaid; and have you then and there this precept, with a return of your proceedings therein. Given under the hand and seal of the said A. B. the day of in the year of our Lord, one thousand

How such
summons to
be served.

9. *And be it enacted*, That the said summons shall be served upon the party, against whom the said complaint is made, or a copy thereof left at his usual place of abode, six entire days before the day of appearance therein mentioned; and that such service of the said summons in any part of this state, as well with-

out the said county as within it, shall be good and effectual in law; and further, that no jury shall, by virtue of this act, be sworn to inquire of and try any forcible entry and detainer, or forcible or unlawful detainer, where such previous notice shall not have been given as aforesaid.

1798.

No trial to be had without notice to the defendant.

10. *And be it enacted*, That the party, against whom such complaint is made, may, at the time of appearance mentioned in the said summons, and before the said jury is sworn, plead not guilty to the said charge or complaint, or that he hath been three years in quiet possession, and his estate therein not ended or determined, agreeably to a subsequent clause in this act; and thereupon the said parties shall be at issue, and the said justice shall proceed to swear the jury, so returned, to inquire of and try the same; and if the said party, against whom the complaint is made as aforesaid, does not appear at the time specified in the said summons, or appearing, does not plead to the said complaint, then it shall be lawful for the said justice to proceed in the same manner, as if he had pleaded not guilty.

Defendant may plead not guilty, &c.

How to proceed if the defendant does not appear or plead.

11. *And be it enacted*, That to the said jurors and each of them, who shall be returned to inquire of and try the said complaint, the said justice shall administer the following oath or affirmation:

You do swear (or affirm) that you will well and truly try this issue joined between C. D. and E. F. and a true verdict give according to evidence.

Juror's oath.

12. *And be it enacted*, That when the jury shall be so sworn as aforesaid, the said justice shall cause the said complaint to be read to them, and then call upon the complainant to support the same.

Complaint to be read, and complainant to support the same.

13. *And be it enacted*, That if the jury find the party, against whom such complaint is exhibited, guilty, or find against his plea of possession, it shall be the duty of the said justice to record the said verdict, and to give judgment thereon, with treble costs; and also to issue a writ of restitution, directed to the sheriff, to cause the complainant to be re-seized or re-possessed, to which shall be added a clause, commanding the said sheriff to levy the said costs of the goods and chattels of the offender, and, for want thereof, to take the body of such offender, and him safely to keep in close custody in the common gaol of the county, until he shall pay the same, or be thence delivered by due course of law.

If verdict be against the defendant, the justice shall give judgment thereon and award restitution.

14. *And be it enacted*, That if the jury find against the said complainant, the said justice shall record the said verdict, and give judgment accordingly, with costs, and shall issue execution, directed as aforesaid, for the said costs, against the goods and chattels, and, in want thereof, against the body of the said complainant.

If verdict against the complainant, then judgment accordingly, and the complainant to pay costs.

15. *And be it enacted*, That the said justice may, at the request of either party, and on good reasons being assigned, postpone the said trial to any time not exceeding fifteen days; but such postponement to be on the payment of costs.

Trial may be postponed for good reasons.

1798.

Justice's docket, how to be kept.

16. *And be it enacted*, That it shall be the duty of the said justice to enter, on his minutes or docket, true copies of the complaint exhibited by virtue of this act, and of the summons and venire, and their respective returns, and the names of the jurors, their verdict, and his judgment thereon; and also the names of the witnesses and the admission of evidence objected to, and the rejection of evidence offered, and the reason of such admission or rejection, and all the proceedings before him had touching the said complaint.

Penalty on sheriff for not performing the duties enjoined by this act.

17. *And be it enacted*, That if the sheriff of any county shall neglect or refuse to execute or return any precept, writ, or other process, to him directed and delivered, by virtue of this act, he shall, for every such offence, forfeit and pay two hundred dollars to the party grieved, to be recovered, with costs, by action of debt, in any court of record having cognizance of that sum.

Judgment may be removed by certiorari.

18. *And be it enacted*, That the proceedings had by virtue of this act, on such forcible entry and detainer, or forcible or unlawful detainer, may be removed before the supreme court by writ of certiorari, and in no other way, and then only after judgment.

This act not to bar the injured party from his action against the other.

19. *And be it enacted*, That neither the said judgment, or any thing in this act, shall bar or prevent the party injured from bringing an action of trespass, or other action, against the aggressor or party offending.

Merits of the title not to be inquired into.

20. *And be it enacted*, That the estate or merits of the title shall in no wise be inquired into on any complaint which shall be exhibited by virtue of this act. *Provided always*, That this act shall not extend to any person who hath had the uninterrupted occupation, or been in the quiet possession of any lands or tenements, for the space of three whole years together, immediately preceding such complaint so exhibited to the said justice, and whose estate therein is not ended or determined; but every such person may plead the same to the said complaint, which shall be tried in the manner herein before prescribed.

Not to extend to a person who has had three years quiet possession.

Writs of subpoena may be issued into another county.

21. *And be it enacted*, That every justice of the peace, before whom any prosecution shall be instituted, by virtue of this act, shall be and he is hereby authorized to issue writs of subpoena ad testificandum into any county of this state.

22. *And be it enacted*, That in prosecutions under this act, the following fees shall be allowed:

To the Justice.

Table of fees.

For every summons,	thirty cents.
For every venire facias,	forty cents.
For entering copies of every complaint, summons, venire facias, and their returns,	one dollar.
For subpoena for every witness,	twelve cents.
For swearing the jury,	twenty cents.
For administering every oath or affirmation,	five cents.
For entering every verdict,	twelve cents.
For entering every judgment,	twelve cents.
For every trial,	two dollars.
For return to every certiorari,	one dollar.

To the Sheriff.

1798.

For serving every summons and return, one dollar.
 For summoning every jury, returning the }
 precept, and attending the trial, } four dollars.
 For executing every writ of restitution, two dollars.
 For serving every execution for costs, ad-
 vertising property for sale, &c. the same fees as
 are allowed for the like services in the court
 of common pleas.

To the Jurors and Witnesses.

The same fees as are or shall be by law allowed to them re-
 spectively in civil causes, in the court of common pleas, and the
 like for serving subpoena on every witness.

To the Attorney.

For the trial of every cause, two dollars.

23. *And be it enacted*, That every person summoned as a
 juror, or subpoenaed as a witness, who shall not appear, or ap-
 pearing, shall refuse to serve, or to give evidence in any prose-
 cution instituted by virtue of this act, shall forfeit and pay, for
 every such default or refusal, unless some reasonable cause be
 assigned, such fine not exceeding five dollars, nor less than one
 dollar in the case of a juror, and not exceeding twenty dollars,
 nor less than five dollars, in the case of a witness, as the said jus-
 tice shall think proper to impose; and such justice is hereby au-
 thorized and required to issue an execution, directed to any con-
 stable of the said county, to levy the same of the goods and
 chattels of the offender; which fine, when recovered, shall be ap-
 plied by the said justice to the use of the said county.

Penalty on de-
 faulting jurors
 and witnesses.

And how to be
 recovered and
 applied.

AN ACT making provision for ascertaining the boundaries of coun-
 ties and townships.

PAT. 294.

Passed the 5th of March, 1798.

1. *BE IT ENACTED by the Council and General Assembly of
 this state, and it is hereby enacted by the authority of the same,*
 That where the partition lines between counties have not been
 actually surveyed and distinctly marked and ascertained, in
 whole or in part, or where any dispute shall arise respecting the
 same, it shall be lawful for the board of chosen freeholders of
 either county, on giving thirty days notice in writing, signed by
 the director of such board, to the director of the board of chosen
 freeholders of the other county, to make application to the su-
 preme court of this state, which is hereby empowered and di-
 rected to appoint three judicious commissioners, not being in-
 habitants of either of the said counties, to run, survey, mark and
 ascertain the said line or lines of partition, or any part thereof,
 agreeably to the act or acts of the legislature constituting such
 counties, or describing their boundaries.

The board of
 freeholders
 may apply to
 the supreme
 court to ap-
 point commis-
 sioners for as-
 certaining the
 line of parti-
 tion between
 counties.

1798.

Commissioners to take an oath of office.

Commissioners to give thirty days notice of meeting to the directors of the boards.

Commissioners to survey and ascertain the line of partition; which survey shall be recorded in the secretary's office.

Line so surveyed to be the boundary between the counties.

Expense to be paid equally by the said counties.

Commissioners to settle township lines to be appointed by the court of common pleas.

To take oath of office, and give notice of their meeting.

Commissioners to survey and ascertain the line of partition; which survey shall be recorded by the clerk of the court.

2. *And be it enacted*, That the said commissioners, before they enter upon the execution of their appointment, shall take and subscribe an oath or affirmation before some judge or justice of the peace, that they will faithfully and impartially perform all the duties appertaining to the said appointment.

3. *And be it enacted*, That the said commissioners, or any two of them, shall give thirty days notice, in writing, to the respective directors of the said boards of the time and place of their meeting, to execute the duties designated in and by their appointment.

4. *And be it enacted*, That the said commissioners, or any two of them, shall cause the said line of partition, or such part thereof as shall be specified in, or become necessary by, their appointment, to be run, surveyed, marked and ascertained in conformity, as nearly as may be, with the act or acts of the legislature constituting such counties and prescribing their boundaries; which survey, certified under their hands, or the hands of any two of them, shall be annexed to their commission or appointment, and oath or affirmation of office, and be delivered to the secretary of this state, to be by him recorded and filed.

5. *And be it enacted*, That the line so surveyed, marked, ascertained and certified, shall be, and hereby is declared to be the boundary and line of partition between the said counties.

6. *And be it enacted*, That all the charges and expenses of executing the duties of such appointment, inclusive of recording and filing the commission, oath of office, and survey, shall be taxed by the said supreme court, and equally paid by the said counties.

7. *And be it enacted*, That when the board of chosen freeholders of a county shall deem it necessary to ascertain the partition line, or any part thereof, between any townships of the said county, it shall be lawful for the said board to make application to the inferior court of common pleas, on giving the like notice to the chosen freeholders of such townships; whereupon the said inferior court of common pleas shall appoint three judicious commissioners, not being inhabitants of either of the said townships, to run, survey, mark and ascertain the said line, or any part thereof, agreeably, as near as may be, to charters, settlements, and acts relative to the same.

8. *And be it enacted*, That the said commissioners shall take an oath or affirmation of office as aforesaid, and shall, as above mentioned, give thirty days notice, in writing, to the chosen freeholders of the said townships, of the time and place of their meeting to perform the duties enjoined upon them.

9. *And be it enacted*, That the said commissioners, or any two of them, shall cause the said line, or such part of it as shall be specified in, or become necessary by, their appointment, to be run, surveyed, marked and ascertained, agreeably, as near as may be, to charters, settlements and acts relative to the same; which survey, certified under their, or any two of their hands, shall be annexed to their commission or appointment, and oath

or affirmation of office, and delivered to the clerk of the court of common pleas of the said county, who shall record and file the same.

1798.

10. *And be it enacted*, That the line, so surveyed, marked, ascertained, and certified, shall be the boundary, or line of partition between the said townships; and all the charges and expenses attending the same shall be taxed by the said inferior court of common pleas, and equally paid by the said townships.

Such line to be the boundary between the townships; expenses to be equally paid.

11. *And be it enacted*, That this act shall only operate on the boundaries and lines of counties and townships as such; and shall in no wise be construed to affect the boundaries or lines of lands belonging to any person whatsoever.

This act not to affect the lines of lands belonging to any person.

12. *And be it enacted*, That the term, township, made use of in this act, shall be construed to comprehend precinct, ward, borough, and town corporate.

Township to comprehend precinct, ward, &c.

13. *And be it enacted*, That if any commissioner, appointed by virtue of this act, shall die, refuse to serve, or resign, it shall be the duty of the said supreme court, or the said inferior court of common pleas, as the case may be, to appoint another in his room.

If any commissioner die, another to be appointed.

14. *And be it enacted*, That the act, entitled, "An act for running and marking the lines between the several counties and townships of this colony," passed the twenty-eighth day of November, in the year of our Lord, one thousand seven hundred and sixty, be, and the same is hereby repealed.

Former law repealed.

AN ACT for the relief of creditors against absconding and absent debtors.

PAT. 296.

Passed the 8th of March, 1798.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if any creditor shall make oath or affirmation before any judge of any of the courts of record of this state, or justice of the peace of any county in the same, that he verily believes, that his debtor absconds from his creditors, and is not, to his knowledge or belief, resident in this state at that time, then it shall be the duty of the clerk of the supreme court, or of the court of common pleas, to issue a writ of attachment, to be directed to the sheriff or coroner, as the case may require, and returnable to the next term, commanding him to attach the rights and credits, moneys and effects, goods and chattels, lands and tenements of such debtor, wheresoever they may be found; which oath or affirmation shall, prior to the sealing of the said writ, be delivered to the said clerk, to be by him filed in his office.

Attachment to issue on oath of the creditor, that his debtor absconds.

2. *And be it enacted*, That if the said creditor be absent, or reside out of this state, then his agent or attorney may make oath or affirmation to the above effect, and deliver the same to the said clerk to be filed, who shall thereupon issue such writ of attachment.

Or, in the absence of the creditor, on the oath of his agent.

1796.

Penalty on issuing such writ, contrary to this act

In what manner the attachment is to be executed.

Inventory and appraisement of property attached, to be made and returned with the writ.

Property bound from the time of serving the attachment.

Goods attached to be kept by the officer, unless garnishee give bond for the same.

Officer may break open houses, &c., in search of property.

Notice of the attachment to be published in some of the newspapers.

In what cases the garnishee may be sued.

3. *And be it enacted*, That if any clerk shall seal such writ of attachment, before such oath or affirmation shall be delivered to him, he shall forfeit and pay twenty dollars to the party injured, to be recovered, with costs, by action of debt, in any court of record of this state having cognizance of that sum.

4. *And be it enacted*, That the said writ of attachment shall be executed in the following manner; that is to say, The officer, to whom it is directed, shall go to the house or lands of the defendant, or to the person or house of the person, in whose custody or possession the defendant's property and estate may be, and then and there declare, in the presence of one credible person at the least, that he attaches the rights and credits, moneys and effects, goods and chattels, lands and tenements of such defendant, at the suit of the plaintiff in the said writ named.

5. *And be it enacted*, That the said officer shall, with the assistance of one discreet and impartial freeholder, make a just and true inventory and appraisement of all the property and estate of the defendant, so by him attached, and such inventory and appraisement, dated and signed by himself and the said freeholder, shall annex to and return with the said writ, and the said officer shall endorse on the said writ, the true time of executing the same, and sign his name thereto.

6. *And be it enacted*, That the said writ shall bind the property and estate of the defendant, so as aforesaid attached, from the time of executing the same.

7. *And be it enacted*, That the goods, chattels, and personal estate, so attached, shall remain in the safe keeping and care of the said officer, in order to answer and abide the judgment of the court, unless the garnishee, after inventory and appraisement thereof, shall enter into bond to such officer, with two sureties, being freeholders in the county, in double the sum at which they were appraised, with condition, that the said goods, chattels and personal estate, or the full value thereof, to be estimated by such appraisement, shall be forthcoming to answer the judgment of the said court.

8. *And be it enacted*, That to enable the said officer fully to execute such writ of attachment, he is hereby authorized and required, (having first made demand and being refused) to break open any house, chamber, room, shop, door, chest, trunk or other place or thing, where he shall be informed, or have reason to believe any money, goods, books of account, bonds, bills, notes, papers or writings of the said defendant may be deposited, secreted, had, or found.

9. *And be it enacted*, That on the return of the said writ of attachment, it shall be the duty of the clerk of the court to give notice for two months successively, in some public newspaper circulating in this state, convenient to the place where the court is held, of such attachment, and at whose suit, against whose estate, for what sum, and from what court the same issued.

10. *And be it enacted*, That the plaintiff, notwithstanding the garnishee's denial of his having any moneys, goods, chattels or

1798.

effects of the defendant in his custody or possession, or of his being indebted to him, may, if he really believes that the said garnishee hath such moneys, goods, chattels or effects in his custody or possession, or that he is indebted to the defendant, and is in fear of the said garnishee's absconding before judgment and execution can be had against such garnishee, and shall make oath or affirmation thereof, and deliver the same to the clerk as aforesaid, institute a suit by *capias ad respondendum* against the said garnishee, who shall thereon be held to special bail; in which suit the plaintiff may declare against the said garnishee for the moneys, goods, chattels, or effects, so as aforesaid in his custody or possession, in trover and conversion, as of such plaintiff's own proper moneys, goods, chattels and effects, or if the said garnishee be indebted to the defendant in attachment, then the plaintiff may declare for so much money had and received by such garnishee to the use of the plaintiff, and, on the trial, may give the special matter in evidence, and thereupon the jury shall find for the said plaintiff, and assess damages to the full value of the moneys, goods, chattels or effects so proved to be in the custody or possession of such garnishee, or to the full value of the debt so due from such garnishee to the defendant in attachment; on which verdict, judgment shall be given, with costs of suit, and execution issued thereon against the goods and chattels, lands and tenements, and the body of the said garnishee, as is or shall be by law allowed in actions of trespass on the case.

11. *And be it enacted*, That if any clerk shall seal such writ of *capias ad respondendum* against the garnishee, before such oath or affirmation shall be delivered to him, he shall forfeit and pay twenty dollars to the party injured, to be recovered, with costs, by action of debt, in any court of record of this state having cognizance of that sum.

Plaintiff to make oath before writ is issued against garnishee under the preceding section.

12. *And be it enacted*, That the suit so instituted against the said garnishee, shall be continued by the court, without trial or decision, until the action against the defendant in attachment shall be adjudicated upon and determined; and if in such action, nothing shall be found due from the defendant to the plaintiff, then the garnishee shall recover costs against the plaintiff, notwithstanding he may be indebted to the defendant, or have the moneys, goods, chattels, or effects of such defendant in his custody or possession.

Suit against garnishee to be continued till the principal action be determined.

13. *And be it enacted*, That if in the suit, so instituted against the garnishee, the plaintiff shall be nonsuited, or shall discontinue, or verdict and judgment shall be given against him, then the said garnishee shall recover costs.

In what cases garnishees shall have costs.

14. *And be it enacted*, That if the sheriff or other officer shall, by virtue of any writ of attachment, issued in pursuance of this act, attach and take, through ignorance or want of proper information, any goods, chattels or effects, which shall be claimed by any person as his property, it shall and may be lawful for such sheriff or officer thereupon to summon and swear a jury to inquire into and try the right and property thereof; and if the jury, on such inquest, shall find the right and property of such goods,

When goods attached are claimed by others, the right of property to be tried by a jury.

1799.

Costs of such trial, by whom to be paid.

chattels or effects to be in the claimant, or in any other than the defendant in attachment, such sheriff or officer shall forthwith deliver the said goods, chattels or effects, to the person in whom the property is so found by the inquisition, or to his agent or attorney; and such sheriff or officer shall not be liable to any prosecution for having attached and taken the said goods, chattels or effects, through ignorance or want of proper information; and all reasonable costs, arising by such inquest, shall be allowed by the court, and paid out of the estate of the defendant in attachment, if the property be found to be in the claimant, or any other person than the said defendant; but if the property be found to be in the said defendant, then such costs shall be paid by the said claimant, or person who applied for an inquisition, or occasioned the same to be taken.

Persons to be appointed by the court to audit accounts and adjust demands of creditors.

15. *And be it enacted*, That the court, on return of such writ of attachment, is hereby empowered and required to appoint three honest, discreet and fit persons to audit and adjust the demands of the plaintiff, and of so many of the defendant's creditors as shall have applied to the court for that purpose, or to the auditors, before they shall have made their report; and it shall be the duty of the said auditors, or any two of them, to ascertain the sum due to the plaintiff and to each of the creditors aforesaid, and to make their report thereof in writing, under their hands, to the first or second term thereafter, as the case may require; which report shall be filed by the clerk, and shall, the third term, (including the term to which the writ was returned) be made absolute, and judgment entered thereon. *Provided always*, That such defendant shall have been thrice called in each of the said terms and have made default, and that every such calling and default shall be entered by the clerk in the minutes of the court.

Report of auditors to be filed and judgment entered thereon.

If defendant appear and file special bail, attachment to be set aside.

16. *And be it enacted*, That if the defendant appear in any of the three terms aforesaid, and accept of a declaration at the suit of every or any one of the said creditors, and enter into special bail, then the said writ of attachment, report, and all the proceedings thereon, shall, as to the suit wherein such special bail is given, be set aside; and if special bail be given to the suit of the plaintiff in attachment, then the costs, which shall have accrued on such attachment, shall abide the event of such suit.

Costs to abide the event of the suit.

Plaintiff not to discontinue without leave of the creditors.

17. *And be it enacted*, That the plaintiff in such attachment shall not be permitted to discontinue the same, without the consent of, or satisfaction made to, each of the said creditors who shall have applied to the court, or auditors as aforesaid.

Auditors to examine whom they shall think fit, touching the property of the defendant.

18. *And for the better discovery of property and detection of fraudulent practices, Be it further enacted*, That it shall and may be lawful for the said auditors, or any two of them, to issue their warrant, under their hands and seals, commanding the sheriff of the proper county, or any constable in the same, to bring before them, at a certain time and place therein specified, the wife of such defendant, or any other person, and him or her, by word of mouth, or interrogatories in writing, to examine, on oath or affirmation, which the said auditors, or any two of them, are here-

by authorized to administer, touching all matters relating to the trade, dealings, moneys, debts, effects, rights, credits, lands, tenements, property and estate of the said defendant, and his secret grants, or fraudulent transfer or conveyance of the same; and if any person shall refuse to be sworn or examined by or before the said auditors, or any two of them, touching any matter herein directed, then such person, so offending, is hereby declared to be guilty of a contempt of the authority of the court, which appointed the said auditors, and shall, by the said court, be proceeded against accordingly.

1798.

19. *And be it enacted*, That the said auditors, or any two of them, are hereby empowered to issue their warrant, under their hands and seals, commanding the sheriff of the proper county, or any constable in the same, to break open, (having first made demand and been refused) any house, chamber, room, shop, door, trunk, chest, or other place or thing, where they shall have reason to believe any moneys, goods, chattels, books of account, bonds, bills, notes, papers or writings of the said defendant may be deposited, secreted, had or found, and to seize and inventory the same, and make report thereof to the court at the then next term; and if any person resist the execution of the said warrant, he shall be guilty of a contempt of the authority of the court, which appointed the said auditors, and shall be proceeded against accordingly by the said court.

Auditors may order houses, &c., to be broke open, and searched for concealed property.

20. *And be it enacted*, That where judgment, on the report of the auditors, shall be entered against the defendant by default, a scire facias shall (except only as is herein before mentioned) issue against the garnishee, to appear at the next term after entry of such judgment, and shew cause why the plaintiff should not have execution of the money so as aforesaid due by him to the defendant, and in his hands, or the value of the goods and chattels of the defendant, which were in the custody or possession of such garnishee, at the time of executing the writ of attachment; and if the garnishee shall appear at the return of the said scire facias, and on oath or otherwise, to the satisfaction of the plaintiff, confess the amount of the debt due from him to the defendant, or the true value of the defendant's goods and chattels, which were as aforesaid in his custody or possession, and tender the same to the plaintiff, and he accept thereof, then he, the said garnishee, shall, by the judgment of the court, be acquitted and discharged from the debt; or goods and chattels aforesaid, with costs; and if the garnishee, on being returned, warned, on the scire facias, or on two writs of scire facias it be returned, that he had nothing whereby to be summoned, or could not be found in the county, shall not appear, confess and tender as aforesaid, then judgment shall be entered against such garnishee by default, and a writ of inquiry shall be awarded to the sheriff or other officer, to inquire and certify to the court, by the oath or affirmation of twelve good and lawful men of his bailiwick, the amount of the debt due from such garnishee, or the value of the goods and chattels so as aforesaid in his custody or possession, and on the return of such inquiry, judgment shall be entered against the said garnishee

Upon judgment on report of auditors, scire facias to issue against garnishee.

1793.

for the sum so found and certified, with costs; and if the garnishee shall appear at the return of the said *scire facias*, and plead thereto, that he had no goods or chattels of the defendant in his custody or possession, either at the time of executing the writ of attachment, or at any time since, or that he was not indebted to the defendant, and the plaintiff, on trial, shall prove that he was indebted, then the jury shall find for the plaintiff, and assess damages to the amount or value of such debt, goods or chattels, with costs, and judgment shall be entered accordingly, and execution awarded against the goods and chattels, lands and tenements, and also the person of the said garnishee; but if the jury find for the garnishee, then he shall recover costs against the plaintiff, and have execution for the same.

On judgment against the defendant the auditor may, by virtue of rule of court, sell the real and personal estate of such defendant.

21. *And be it enacted*, That where judgment, on the report of the said auditors, shall be entered against the said defendant by default, the said auditors, or any two of them, may, by virtue of an order of court for that purpose, make sale and assurance of the goods and chattels, lands and tenements, of the said defendant, which were attached and taken as aforesaid, or such part thereof as shall be necessary to satisfy the debts of the plaintiff, and the creditors who may have applied agreeably to the directions of this act; but notice of the sale of such goods and chattels, lands and tenements, shall be set up at five of the most public places in the county, and be advertised in some one of the newspapers circulating in this state, for the space of thirty days prior to such sale; nor shall any sale of such lands or tenements be made in less than eighteen calendar months from the time of executing the writ of attachment, nor of any goods or chattels, till judgment be obtained against the defendant as aforesaid, unless they be of a perishable nature, and then the court may, on the return of the said writ, or at any other time before judgment, order the said auditors, or any two of them, to sell such perishable goods or chattels, in which case, advertisements set up for the space of five days prior to the time of sale, in four of the most public places in the township, precinct or ward, shall be sufficient.

Court may order perishable goods to be sold before judgment.

The moneys arising from such sale, to be distributed among his creditors in proportion to their respective debts.

22. *And be it enacted*, That when the goods and chattels, lands and tenements of the said defendant shall be sold as aforesaid, then it shall be the duty of the said auditors, or any two of them, to cause public notice to be given in one or more of the newspapers circulating in this state, requiring a meeting of the plaintiff and creditors, who may have applied agreeably to the directions of this act, at a certain time and place in the said notice to be specified, which time shall not be less than six nor more than ten weeks after such notice given, for the purpose of making distribution of the moneys arising from such sale; at which meeting, or other subsequent meeting, to be continued by adjournment, if necessary, the said auditors, or any two of them, shall distribute among the said plaintiff and creditors equally, and in a ratable proportion, according to the quantum or amount of their respective debts, as ascertained by the said report and the judgment thereon, all the moneys arising from the sale of the said goods and chattels, lands and tenements, first deducting legal

costs and charges; and if the said moneys be not sufficient to satisfy the said debts, then the said auditors, or any two of them, shall assign to the said plaintiff and creditors, the choses in action, rights, and credits of the said defendant, in proportion to their respective debts, so as aforesaid ascertained; which assignment shall vest the property and interest of the said defendant in such assignee, so as he may sue for and recover the same in his own name, and for his own use; and in the said distribution and assignment, no preference shall be allowed to debts due on specialties; and further, that the moneys so distributed, as also the moneys which may be received by virtue of such assignment, shall operate as payment of such debt, in whole or in part, as the case may be; and the said auditors are hereby directed to make report of such distribution, assignment, and other proceedings under this section, to the court at the next term, in order that the same may be filed in the clerk's office.

23. *And be it enacted*, That every grant, bargain, sale, assignment, transfer, assurance, alienation and conveyance, made by the said auditors, or any two of them, under or by virtue of this act, shall be as good and effectual in law, as if executed by the said defendant before the service of such attachment.

24. *And be it enacted*, That any creditor, whose debt is not due, may apply to the court, or auditors, in the same manner as if it were due, and thereupon shall be admitted and considered as a creditor under this act, and shall receive a dividend of the defendant's estate in proportion with the other creditors, deducting only a rebate of legal interest for what he shall receive on such debt, to be computed from the actual payment thereof to the time such debt would have become due.

25. *And be it enacted*, That if any creditor, whether his debt be due or not, shall neglect or refuse to apply to the court, or auditors, in the manner prescribed by this act, he shall not be entitled to any dividend or distributive share; but all the moneys arising from the sale of the defendant's goods and chattels, lands and tenements, shall be distributed among, and his choses in action, rights and credits, shall be assigned to such of the creditors, as shall have duly applied to the said court or auditors.

26. *And whereas* debtors, who reside out of this state, may have property sufficient within the same to pay their debts, or some part thereof, *Be it therefore further enacted*, That the rights and credits, moneys and effects, goods and chattels, lands and tenements, of every debtor, who may reside out of this state, shall be liable to be attached, taken, proceeded against, sold, assigned, transferred and conveyed, for the payment of his debts, in the like manner, as nearly as may be, as the rights and credits, moneys and effects, goods and chattels, lands and tenements of other debtors are made liable by this act: *Provided*, That instead of the oath or affirmation herein before mentioned, the applicant for such writ of attachment shall, before the sealing thereof, make oath or affirmation, (which shall be filed in the office of the clerk of the court, out of which the same shall be issued) before

1798.

If such moneys be not sufficient to pay the debts, then the auditors to assign the choses in action, rights and credits of the defendant to his creditors.

Auditors to make report of such distribution and assignment.

The sale and conveyance of auditors to be good and effectual in law.

Debts not due may be paid as if due.

Creditors neglecting to apply, not to have any share.

The property of debtors residing out of the state, may be attached.

Oath to be made before attachment is sued.

1798.

Justice's docket, how to be kept.

16. *And be it enacted*, That it shall be the duty of the said justice to enter, on his minutes or docket, true copies of the complaint exhibited by virtue of this act, and of the summons and venire, and their respective returns, and the names of the jurors, their verdict, and his judgment thereon; and also the names of the witnesses and the admission of evidence objected to, and the rejection of evidence offered, and the reason of such admission or rejection, and all the proceedings before him had touching the said complaint.

Penalty on sheriff for not performing the duties enjoined by this act.

17. *And be it enacted*, That if the sheriff of any county shall neglect or refuse to execute or return any precept, writ, or other process, to him directed and delivered, by virtue of this act, he shall, for every such offence, forfeit and pay two hundred dollars to the party grieved, to be recovered, with costs, by action of debt, in any court of record having cognizance of that sum.

Judgment may be removed by certiorari.

18. *And be it enacted*, That the proceedings had by virtue of this act, on such forcible entry and detainer, or forcible or unlawful detainer, may be removed before the supreme court by writ of certiorari, and in no other way, and then only after judgment.

This act not to bar the injured party from his action against the other.

19. *And be it enacted*, That neither the said judgment, or any thing in this act, shall bar or prevent the party injured from bringing an action of trespass, or other action, against the aggressor or party offending.

Merits of the title not to be inquired into.

20. *And be it enacted*, That the estate or merits of the title shall in no wise be inquired into on any complaint which shall be exhibited by virtue of this act. *Provided always*, That this act shall not extend to any person who hath had the uninterrupted occupation, or been in the quiet possession of any lands or tenements, for the space of three whole years together, immediately preceding such complaint so exhibited to the said justice, and whose estate therein is not ended or determined; but every such person may plead the same to the said complaint, which shall be tried in the manner herein before prescribed.

Not to extend to a person who has had three years quiet possession.

Writs of subpoena may be issued into another county.

21. *And be it enacted*, That every justice of the peace, before whom any prosecution shall be instituted, by virtue of this act, shall be and he is hereby authorized to issue writs of subpoena ad testificandum into any county of this state.

22. *And be it enacted*, That in prosecutions under this act, the following fees shall be allowed:

To the Justice.

Table of fees.

For every summons,	thirty cents.
For every venire facias,	forty cents.
For entering copies of every complaint, summons, venire facias, and their returns,	one dollar.
For subpoena for every witness,	twelve cents.
For swearing the jury,	twenty cents.
For administering every oath or affirmation,	five cents.
For entering every verdict,	twelve cents.
For entering every judgment,	twelve cents.
For every trial,	two dollars.
For return to every certiorari,	one dollar.

To the Sheriff.

1798.

For serving every summons and return, one dollar.
 For summoning every jury, returning the } four dollars.
 precept, and attending the trial, }
 For executing every writ of restitution, two dollars.
 For serving every execution for costs, adver-
 tising property for sale, &c. the same fees as
 are allowed for the like services in the court
 of common pleas.

To the Jurors and Witnesses.

The same fees as are or shall be by law allowed to them re-
 spectively in civil causes, in the court of common pleas, and the
 like for serving subpoena on every witness.

To the Attorney.

For the trial of every cause, two dollars.

23. *And be it enacted*, That every person summoned as a
 juror, or subpoenaed as a witness, who shall not appear, or ap-
 pearing, shall refuse to serve, or to give evidence in any prose-
 cution instituted by virtue of this act, shall forfeit and pay, for
 every such default or refusal, unless some reasonable cause be
 assigned, such fine not exceeding five dollars, nor less than one
 dollar in the case of a juror, and not exceeding twenty dollars,
 nor less than five dollars, in the case of a witness, as the said jus-
 tice shall think proper to impose; and such justice is hereby au-
 thorized and required to issue an execution, directed to any con-
 stable of the said county, to levy the same of the goods and
 chattels of the offender; which fine, when recovered, shall be ap-
 plied by the said justice to the use of the said county.

Penalty on de-
 faulting jurors
 and witnesses.

And how to be
 recovered and
 applied.

**AN ACT making provision for ascertaining the boundaries of coun-
 ties and townships.**

PAT. 294.

Passed the 5th of March, 1798.

1. *BE IT ENACTED by the Council and General Assembly of
 this state, and it is hereby enacted by the authority of the same*,
 That where the partition lines between counties have not been
 actually surveyed and distinctly marked and ascertained, in
 whole or in part, or where any dispute shall arise respecting the
 same, it shall be lawful for the board of chosen freeholders of
 either county, on giving thirty days notice in writing, signed by
 the director of such board, to the director of the board of chosen
 freeholders of the other county, to make application to the su-
 preme court of this state, which is hereby empowered and di-
 rected to appoint three judicious commissioners, not being in-
 habitants of either of the said counties, to run, survey, mark and
 ascertain the said line or lines of partition, or any part thereof,
 agreeably to the act or acts of the legislature constituting such
 counties, or describing their boundaries.

The board of
 freeholders
 may apply to
 the supreme
 court to ap-
 point commis-
 sioners for as-
 certaining the
 line of parti-
 tion between
 counties.

1798.

Commissioners to take an oath of office.

Commissioners to give thirty days notice of meeting to the directors of the boards.

Commissioners to survey and ascertain the line of partition; which survey shall be recorded in the secretary's office.

Line so surveyed to be the boundary between the counties.

Expense to be paid equally by the said counties.

Commissioners to settle township lines to be appointed by the court of common pleas.

To take oath of office, and give notice of their meeting.

Commissioners to survey and ascertain the line of partition; which survey shall be recorded by the clerk of the court.

2. *And be it enacted*, That the said commissioners, before they enter upon the execution of their appointment, shall take and subscribe an oath or affirmation before some judge or justice of the peace, that they will faithfully and impartially perform all the duties appertaining to the said appointment.

3. *And be it enacted*, That the said commissioners, or any two of them, shall give thirty days notice, in writing, to the respective directors of the said boards of the time and place of their meeting, to execute the duties designated in and by their appointment.

4. *And be it enacted*, That the said commissioners, or any two of them, shall cause the said line of partition, or such part thereof as shall be specified in, or become necessary by, their appointment, to be run, surveyed, marked and ascertained in conformity, as nearly as may be, with the act or acts of the legislature constituting such counties and prescribing their boundaries; which survey, certified under their hands, or the hands of any two of them, shall be annexed to their commission or appointment, and oath or affirmation of office, and be delivered to the secretary of this state, to be by him recorded and filed.

5. *And be it enacted*, That the line so surveyed, marked, ascertained and certified, shall be, and hereby is declared to be the boundary and line of partition between the said counties.

6. *And be it enacted*, That all the charges and expenses of executing the duties of such appointment, inclusive of recording and filing the commission, oath of office, and survey, shall be taxed by the said supreme court, and equally paid by the said counties.

7. *And be it enacted*, That when the board of chosen freeholders of a county shall deem it necessary to ascertain the partition line, or any part thereof, between any townships of the said county, it shall be lawful for the said board to make application to the inferior court of common pleas, on giving the like notice to the chosen freeholders of such townships; whereupon the said inferior court of common pleas shall appoint three judicious commissioners, not being inhabitants of either of the said townships, to run, survey, mark and ascertain the said line, or any part thereof, agreeably, as near as may be, to charters, settlements, and acts relative to the same.

8. *And be it enacted*, That the said commissioners shall take an oath or affirmation of office as aforesaid, and shall, as above mentioned, give thirty days notice, in writing, to the chosen freeholders of the said townships, of the time and place of their meeting to perform the duties enjoined upon them.

9. *And be it enacted*, That the said commissioners, or any two of them, shall cause the said line, or such part of it as shall be specified in, or become necessary by, their appointment, to be run, surveyed, marked and ascertained, agreeably, as near as may be, to charters, settlements and acts relative to the same; which survey, certified under their, or any two of their hands, shall be annexed to their commission or appointment, and oath

or affirmation of office, and delivered to the clerk of the court of common pleas of the said county, who shall record and file the same.

1798.

10. *And be it enacted*, That the line, so surveyed, marked, ascertained, and certified, shall be the boundary, or line of partition between the said townships; and all the charges and expenses attending the same shall be taxed by the said inferior court of common pleas, and equally paid by the said townships.

Such line to be the boundary between the townships; expenses to be equally paid.

11. *And be it enacted*, That this act shall only operate on the boundaries and lines of counties and townships as such; and shall in no wise be construed to affect the boundaries or lines of lands belonging to any person whatsoever.

This act not to affect the lines of lands belonging to any person.

12. *And be it enacted*, That the term, township, made use of in this act, shall be construed to comprehend precinct, ward, borough, and town corporate.

Township to comprehend precinct, ward, &c.

13. *And be it enacted*, That if any commissioner, appointed by virtue of this act, shall die, refuse to serve, or resign, it shall be the duty of the said supreme court, or the said inferior court of common pleas, as the case may be, to appoint another in his room.

If any commissioner die, another to be appointed.

14. *And be it enacted*, That the act, entitled, "An act for running and marking the lines between the several counties and townships of this colony," passed the twenty-eighth day of November, in the year of our Lord, one thousand seven hundred and sixty, be, and the same is hereby repealed.

Former law repealed.

AN ACT for the relief of creditors against absconding and absent debtors.

PAT. 296.

Passed the 8th of March, 1798.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if any creditor shall make oath or affirmation before any judge of any of the courts of record of this state, or justice of the peace of any county in the same, that he verily believes, that his debtor absconds from his creditors, and is not, to his knowledge or belief, resident in this state at that time, then it shall be the duty of the clerk of the supreme court, or of the court of common pleas, to issue a writ of attachment, to be directed to the sheriff or coroner, as the case may require, and returnable to the next term, commanding him to attach the rights and credits, moneys and effects, goods and chattels, lands and tenements of such debtor, wheresoever they may be found; which oath or affirmation shall, prior to the sealing of the said writ, be delivered to the said clerk, to be by him filed in his office.

Attachment to issue on oath of the creditor, that his debtor absconds.

2. *And be it enacted*, That if the said creditor be absent, or reside out of this state, then his agent or attorney may make oath or affirmation to the above effect, and deliver the same to the said clerk to be filed, who shall thereupon issue such writ of attachment.

Or, in the absence of the creditor, on the oath of his agent.

1798.

Penalty on issuing such writ, contrary to this act

In what manner the attachment is to be executed.

Inventory and appraisement of property attached, to be made and returned with the writ.

Property bound from the time of serving the attachment.

Goods attached to be kept by the officer, unless garnishee give bond for the same.

Officer may break open houses, &c., in search of property.

Notice of the attachment to be published in some of the newspapers.

In what cases the garnishee may be sued.

3. *And be it enacted*, That if any clerk shall seal such writ of attachment, before such oath or affirmation shall be delivered to him, he shall forfeit and pay twenty dollars to the party injured, to be recovered, with costs, by action of debt, in any court of record of this state having cognizance of that sum.

4. *And be it enacted*, That the said writ of attachment shall be executed in the following manner; that is to say, The officer, to whom it is directed, shall go to the house or lands of the defendant, or to the person or house of the person, in whose custody or possession the defendant's property and estate may be, and then and there declare, in the presence of one credible person at the least, that he attaches the rights and credits, moneys and effects, goods and chattels, lands and tenements of such defendant, at the suit of the plaintiff in the said writ named.

5. *And be it enacted*, That the said officer shall, with the assistance of one discreet and impartial freeholder, make a just and true inventory and appraisement of all the property and estate of the defendant, so by him attached, and such inventory and appraisement, dated and signed by himself and the said freeholder, shall annex to and return with the said writ, and the said officer shall endorse on the said writ, the true time of executing the same, and sign his name thereto.

6. *And be it enacted*, That the said writ shall bind the property and estate of the defendant, so as aforesaid attached, from the time of executing the same.

7. *And be it enacted*, That the goods, chattels, and personal estate, so attached, shall remain in the safe keeping and care of the said officer, in order to answer and abide the judgment of the court, unless the garnishee, after inventory and appraisement thereof, shall enter into bond to such officer, with two sureties, being freeholders in the county, in double the sum at which they were appraised, with condition, that the said goods, chattels and personal estate, or the full value thereof, to be estimated by such appraisement, shall be forthcoming to answer the judgment of the said court.

8. *And be it enacted*, That to enable the said officer fully to execute such writ of attachment, he is hereby authorized and required, (having first made demand and being refused) to break open any house, chamber, room, shop, door, chest, trunk or other place or thing, where he shall be informed, or have reason to believe any money, goods, books of account, bonds, bills, notes, papers or writings of the said defendant may be deposited, secreted, had, or found.

9. *And be it enacted*, That on the return of the said writ of attachment, it shall be the duty of the clerk of the court to give notice for two months successively, in some public newspaper circulating in this state, convenient to the place where the court is held, of such attachment, and at whose suit, against whose estate, for what sum, and from what court the same issued.

10. *And be it enacted*, That the plaintiff, notwithstanding the garnishee's denial of his having any moneys, goods, chattels or

effects of the defendant in his custody or possession, or of his being indebted to him, may, if he really believes that the said garnishee hath such moneys, goods, chattels or effects in his custody or possession, or that he is indebted to the defendant, and is in fear of the said garnishee's absconding before judgment and execution can be had against such garnishee, and shall make oath or affirmation thereof, and deliver the same to the clerk as aforesaid, institute a suit by *capias ad respondendum* against the said garnishee, who shall thereon be held to special bail; in which suit the plaintiff may declare against the said garnishee for the moneys, goods, chattels, or effects, so as aforesaid in his custody or possession, in trover and conversion, as of such plaintiff's own proper moneys, goods, chattels and effects, or if the said garnishee be indebted to the defendant in attachment, then the plaintiff may declare for so much money had and received by such garnishee to the use of the plaintiff, and, on the trial, may give the special matter in evidence, and thereupon the jury shall find for the said plaintiff, and assess damages to the full value of the moneys, goods, chattels or effects so proved to be in the custody or possession of such garnishee, or to the full value of the debt so due from such garnishee to the defendant in attachment; on which verdict, judgment shall be given, with costs of suit, and execution issued thereon against the goods and chattels, lands and tenements, and the body of the said garnishee, as is or shall be by law allowed in actions of trespass on the case.

11. *And be it enacted*, That if any clerk shall seal such writ of *capias ad respondendum* against the garnishee, before such oath or affirmation shall be delivered to him, he shall forfeit and pay twenty dollars to the party injured, to be recovered, with costs, by action of debt, in any court of record of this state having cognizance of that sum.

Plaintiff to make oath before writ is issued against garnishee under the preceding section.

12. *And be it enacted*, That the suit so instituted against the said garnishee, shall be continued by the court, without trial or decision, until the action against the defendant in attachment shall be adjudicated upon and determined; and if in such action, nothing shall be found due from the defendant to the plaintiff, then the garnishee shall recover costs against the plaintiff, notwithstanding he may be indebted to the defendant, or have the moneys, goods, chattels, or effects of such defendant in his custody or possession.

Suit against garnishee to be continued till the principal action be determined.

13. *And be it enacted*, That if in the suit, so instituted against the garnishee, the plaintiff shall be nonsuited, or shall discontinue, or verdict and judgment shall be given against him, then the said garnishee shall recover costs.

In what cases garnishee shall have costs.

14. *And be it enacted*, That if the sheriff or other officer shall, by virtue of any writ of attachment, issued in pursuance of this act, attach and take, through ignorance or want of proper information, any goods, chattels or effects, which shall be claimed by any person as his property, it shall and may be lawful for such sheriff or officer thereupon to summon and swear a jury to inquire into and try the right and property thereof; and if the jury, on such inquest, shall find the right and property of such goods,

When goods attached are claimed by others, the right of property to be tried by a jury.

1798.

Costs of such trial, by whom to be paid.

chattels or effects to be in the claimant, or in any other than the defendant in attachment, such sheriff or officer shall forthwith deliver the said goods, chattels or effects, to the person in whom the property is so found by the inquisition, or to his agent or attorney; and such sheriff or officer shall not be liable to any prosecution for having attached and taken the said goods, chattels or effects, through ignorance or want of proper information; and all reasonable costs, arising by such inquest, shall be allowed by the court, and paid out of the estate of the defendant in attachment, if the property be found to be in the claimant, or any other person than the said defendant; but if the property be found to be in the said defendant, then such costs shall be paid by the said claimant, or person who applied for an inquisition, or occasioned the same to be taken.

Persons to be appointed by the court to audit accounts and adjust demands of creditors.

15. *And be it enacted*, That the court, on return of such writ of attachment, is hereby empowered and required to appoint three honest, discreet and fit persons to audit and adjust the demands of the plaintiff, and of so many of the defendant's creditors as shall have applied to the court for that purpose, or to the auditors, before they shall have made their report; and it shall be the duty of the said auditors, or any two of them, to ascertain the sum due to the plaintiff and to each of the creditors aforesaid, and to make their report thereof in writing, under their hands, to the first or second term thereafter, as the case may require; which report shall be filed by the clerk, and shall, the third term, (including the term to which the writ was returned) be made absolute, and judgment entered thereon. *Provided always*, That such defendant shall have been thrice called in each of the said terms and have made default, and that every such calling and default shall be entered by the clerk in the minutes of the court.

Report of auditors to be filed and judgment entered thereon.

If defendant appear and file special bail, attachment to be set aside.

16. *And be it enacted*, That if the defendant appear in any of the three terms aforesaid, and accept of a declaration at the suit of every or any one of the said creditors, and enter into special bail, then the said writ of attachment, report, and all the proceedings thereon, shall, as to the suit wherein such special bail is given, be set aside; and if special bail be given to the suit of the plaintiff in attachment, then the costs, which shall have accrued on such attachment, shall abide the event of such suit.

Costs to abide the event of the suit.

Plaintiff not to discontinue without leave of the creditors.

17. *And be it enacted*, That the plaintiff in such attachment shall not be permitted to discontinue the same, without the consent of, or satisfaction made to, each of the said creditors who shall have applied to the court, or auditors as aforesaid.

Auditors to examine whom they shall think fit, touching the property of the defendant.

18. *And for the better discovery of property and detection of fraudulent practices, Be it further enacted*, That it shall and may be lawful for the said auditors, or any two of them, to issue their warrant, under their hands and seals, commanding the sheriff of the proper county, or any constable in the same, to bring before them, at a certain time and place therein specified, the wife of such defendant, or any other person, and him or her, by word of mouth, or interrogatories in writing, to examine, on oath or affirmation, which the said auditors, or any two of them, are here-

by authorized to administer, touching all matters relating to the trade, dealings, moneys, debts, effects, rights, credits, lands, tenements, property and estate of the said defendant, and his secret grants, or fraudulent transfer or conveyance of the same; and if any person shall refuse to be sworn or examined by or before the said auditors, or any two of them, touching any matter herein directed, then such person, so offending, is hereby declared to be guilty of a contempt of the authority of the court, which appointed the said auditors, and shall, by the said court, be proceeded against accordingly.

1798.

19. *And be it enacted*, That the said auditors, or any two of them, are hereby empowered to issue their warrant, under their hands and seals, commanding the sheriff of the proper county, or any constable in the same, to break open, (having first made demand and been refused) any house, chamber, room, shop, door, trunk, chest, or other place or thing, where they shall have reason to believe any moneys, goods, chattels, books of account, bonds, bills, notes, papers or writings of the said defendant may be deposited, secreted, had or found, and to seize and inventory the same, and make report thereof to the court at the then next term; and if any person resist the execution of the said warrant, he shall be guilty of a contempt of the authority of the court, which appointed the said auditors, and shall be proceeded against accordingly by the said court.

Auditors may order houses, &c., to be broke open, and searched for concealed property.

20. *And be it enacted*, That where judgment, on the report of the auditors, shall be entered against the defendant by default, a scire facias shall (except only as is herein before mentioned) issue against the garnishee, to appear at the next term after entry of such judgment, and shew cause why the plaintiff should not have execution of the money so as aforesaid due by him to the defendant, and in his hands, or the value of the goods and chattels of the defendant, which were in the custody or possession of such garnishee, at the time of executing the writ of attachment; and if the garnishee shall appear at the return of the said scire facias, and on oath or otherwise, to the satisfaction of the plaintiff, confess the amount of the debt due from him to the defendant, or the true value of the defendant's goods and chattels, which were as aforesaid in his custody or possession, and tender the same to the plaintiff, and he accept thereof, then he, the said garnishee, shall, by the judgment of the court, be acquitted and discharged from the debt, or goods and chattels aforesaid, with costs; and if the garnishee, on being returned, warned, on the scire facias, or on two writs of scire facias it be returned, that he had nothing whereby to be summoned, or could not be found in the county, shall not appear, confess and tender as aforesaid, then judgment shall be entered against such garnishee by default, and a writ of inquiry shall be awarded to the sheriff or other officer, to inquire and certify to the court, by the oath or affirmation of twelve good and lawful men of his bailiwick, the amount of the debt due from such garnishee, or the value of the goods and chattels so as aforesaid in his custody or possession, and on the return of such inquiry, judgment shall be entered against the said garnishee

Upon judgment on report of auditors, scire facias to issue against garnishee.

1798.

for the sum so found and certified, with costs; and if the garnishee shall appear at the return of the said scire facias, and plead thereto, that he had no goods or chattels of the defendant in his custody or possession, either at the time of executing the writ of attachment, or at any time since, or that he was not indebted to the defendant, and the plaintiff, on trial, shall prove that he was indebted, then the jury shall find for the plaintiff, and assess damages to the amount or value of such debt, goods or chattels, with costs, and judgment shall be entered accordingly, and execution awarded against the goods and chattels, lands and tenements, and also the person of the said garnishee; but if the jury find for the garnishee, then he shall recover costs against the plaintiff, and have execution for the same.

On judgment against the defendant the auditor may, by virtue of rule of court, sell the real and personal estate of such defendant.

21. *And be it enacted*, That where judgment, on the report of the said auditors, shall be entered against the said defendant by default, the said auditors, or any two of them, may, by virtue of an order of court for that purpose, make sale and assurance of the goods and chattels, lands and tenements, of the said defendant, which were attached and taken as aforesaid, or such part thereof as shall be necessary to satisfy the debts of the plaintiff, and the creditors who may have applied agreeably to the directions of this act; but notice of the sale of such goods and chattels, lands and tenements, shall be set up at five of the most public places in the county, and be advertised in some one of the newspapers circulating in this state, for the space of thirty days prior to such sale; nor shall any sale of such lands or tenements be made in less than eighteen calendar months from the time of executing the writ of attachment, nor of any goods or chattels, till judgment be obtained against the defendant as aforesaid, unless they be of a perishable nature, and then the court may, on the return of the said writ, or at any other time before judgment, order the said auditors, or any two of them, to sell such perishable goods or chattels, in which case, advertisements set up for the space of five days prior to the time of sale, in four of the most public places in the township, precinct or ward, shall be sufficient.

Court may order perishable goods to be sold before judgment.

The moneys arising from such sale, to be distributed among his creditors in proportion to their respective debts.

22. *And be it enacted*, That when the goods and chattels, lands and tenements of the said defendant shall be sold as aforesaid, then it shall be the duty of the said auditors, or any two of them, to cause public notice to be given in one or more of the newspapers circulating in this state, requiring a meeting of the plaintiff and creditors, who may have applied agreeably to the directions of this act, at a certain time and place in the said notice to be specified, which time shall not be less than six nor more than ten weeks after such notice given, for the purpose of making distribution of the moneys arising from such sale; at which meeting, or other subsequent meeting, to be continued by adjournment, if necessary, the said auditors, or any two of them, shall distribute among the said plaintiff and creditors equally, and in a ratable proportion, according to the quantum or amount of their respective debts, as ascertained by the said report and the judgment thereon, all the moneys arising from the sale of the said goods and chattels, lands and tenements, first deducting legal

costs and charges; and if the said moneys be not sufficient to satisfy the said debts, then the said auditors, or any two of them, shall assign to the said plaintiff and creditors, the choses in action, rights, and credits of the said defendant, in proportion to their respective debts, so as aforesaid ascertained; which assignment shall vest the property and interest of the said defendant in such assignee, so as he may sue for and recover the same in his own name, and for his own use; and in the said distribution and assignment, no preference shall be allowed to debts due on specialties; and further, that the moneys so distributed, as also the moneys which may be received by virtue of such assignment, shall operate as payment of such debt, in whole or in part, as the case may be; and the said auditors are hereby directed to make report of such distribution, assignment, and other proceedings under this section, to the court at the next term, in order that the same may be filed in the clerk's office.

23. *And be it enacted*, That every grant, bargain, sale, assignment, transfer, assurance, alienation and conveyance, made by the said auditors, or any two of them, under or by virtue of this act, shall be as good and effectual in law, as if executed by the said defendant before the service of such attachment.

24. *And be it enacted*, That any creditor, whose debt is not due, may apply to the court, or auditors, in the same manner as if it were due, and thereupon shall be admitted and considered as a creditor under this act, and shall receive a dividend of the defendant's estate in proportion with the other creditors, deducting only a rebate of legal interest for what he shall receive on such debt, to be computed from the actual payment thereof to the time such debt would have become due.

25. *And be it enacted*, That if any creditor, whether his debt be due or not, shall neglect or refuse to apply to the court, or auditors, in the manner prescribed by this act, he shall not be entitled to any dividend or distributive share; but all the moneys arising from the sale of the defendant's goods and chattels, lands and tenements, shall be distributed among, and his choses in action, rights and credits, shall be assigned to such of the creditors, as shall have duly applied to the said court or auditors.

26. *And whereas* debtors, who reside out of this state, may have property sufficient within the same to pay their debts, or some part thereof, *Be it therefore further enacted*, That the rights and credits, moneys and effects, goods and chattels, lands and tenements, of every debtor, who may reside out of this state, shall be liable to be attached, taken, proceeded against, sold, assigned, transferred and conveyed, for the payment of his debts, in the like manner, as nearly as may be, as the rights and credits, moneys and effects, goods and chattels, lands and tenements of other debtors are made liable by this act: *Provided*, That instead of the oath or affirmation herein before mentioned, the applicant for such writ of attachment shall, before the sealing thereof, make oath or affirmation, (which shall be filed in the office of the clerk of the court, out of which the same shall be issued) before

1798.

If such moneys be not sufficient to pay the debts, then the auditors to assign the choses in action, rights and credits of the defendant to his creditors.

Auditors to make report of such distribution and assignment.

The sale and conveyance of auditors to be good and effectual in law.

Debts not due may be paid as if due.

Creditors neglecting to apply, not to have any share.

The property of debtors residing out of the state, may be attached.

Oath to be made before attachment is sued.

1798.

Proviso repealed and supplied by act, May 30, 1820.

Writ of attachment, how to issue against joint obligors, partners, &c.

Creditors to enter into bond to defendant, before they can receive any dividend or assignment.

Action not to abate by the death of the defendant.

Non-residents entitled to the benefit of this act.

Auditors to be allowed for their trouble out of defendant's estate.

This act to be construed liberally.

any judge or justice aforesaid, that the person, against whose estate such attachment is to be issued, is not, to his knowledge or belief, resident at that time in this state, and that he owes to the plaintiff a certain sum of money, specifying, as nearly as he can, the amount of the debt or balance. *And provided also,*

27. *And be it enacted,* That where two or more are jointly bound or indebted, either as joint obligors, partners, or otherwise, the writ of attachment may be issued against the separate, or joint estate, or both, of such joint debtors, or any of them, either by his or their proper name or names, or by the name or style of the partnership, or by whatever other name or names such joint debtors shall be generally known and distinguished in this state, or against the heirs, executors or administrators of them, or any of them; and the estate, so attached, whether it be separate or joint, shall be liable to be sold or assigned for the payment of such joint debt.

28. *And be it enacted,* That no plaintiff, or other creditor, shall receive any dividend or assignment as aforesaid, by virtue of this act, until he shall have entered into bond to the defendant, with two or more sureties, being freeholders and residents in this state, to be approved by the court, in double the sum so to be received or assigned, with condition, that he shall appear to any suit, that may be brought against him by the said defendant within one year next after the date of the said bond, and shall pay unto such defendant any sum of money, which, by the judgment or decree of the court, shall appear to have been received by him, and not due or owing, with costs of suit; which bond shall be filed by the clerk for the benefit of the said defendant.

29. *And be it enacted,* That if any defendant shall die after the return day of the writ of attachment, the said action shall not be thereby abated or discontinued, but the same shall be carried on to judgment, sale, transfer, distribution and final determination, as if such death had not intervened, and the defendant had been alive; and all proceedings and deeds, which shall be had and made in such case, are hereby declared to be as valid and effectual in law, as if they were had and made in the life-time of such defendant. *And further,* That the bond entered into pursuant to the preceding section may, notwithstanding the death of such defendant, be prosecuted in his name to judgment and effect, in the same manner as if he were living.

30. *And be it enacted,* That any creditor, residing out of this state, shall be entitled to all the privileges and benefits of this act.

31. *And be it enacted,* That the said auditors shall be allowed a reasonable compensation for their services, to be taxed by one of the judges of the court, and paid out of the defendant's estate.

32. *And be it enacted,* That this act shall be construed in all courts of judicature in the most liberal manner for the detection of fraud, the advancement of justice, and the benefit of creditors.

33. *And be it further enacted,* That any justice of the peace within this state, on application and affidavit made before him to

the purpose aforesaid, shall, and is hereby required to issue an attachment, under his hand and seal, for any sum not exceeding twenty dollars, directed to a constable, who shall execute the same in manner aforesaid, on the effects, rights and credits of the defendant; and if the creditor shall make sufficient proof of the debt due to him, and also of the effects, rights or credits in the hands of the garnishee, the said justice shall give judgment therein for the plaintiff, and award and issue his execution thereof to the constable, either against the effects of the defendant, or against the garnishee, as in other cases cognizable before a justice, (who shall receive five shillings for serving the attachment, and three shillings for serving the execution, and no more) but the effects of the defendant thereon taken, shall not be sold in less than three months, (unless the same are perishable) to the end, the debtor or his friend may redeem them, and in the mean time the same shall be inventoried and safely kept in such manner as the justice shall direct; and if the plaintiff shall not make sufficient proof of the effects, rights or credits, in the hands of the garnishee, he shall pay him his costs, and if need be, the said justice shall issue his execution against him for the same. *Provided always*, That no judgment shall be entered before such justice within twenty days from the time of issuing such attachment, and it shall be the duty of the plaintiff forthwith, after the issuing of such attachment, to advertise in three of the most public places in the county, that an attachment has been taken out from such justice, against such absconding or absent debtor, in order that any person having a greater demand against such debtor, than is cognizable before a justice of the peace, may have an opportunity to take out an attachment for the recovery of the same.

1798.

How a justice shall proceed in cases cognizable before him.

34. *And be it enacted*, That any writ of attachment against any absconding or absent debtor, which may be issued out of the supreme court, or the court of common pleas, shall be a superseas to all attachments issued by a justice of the peace, undetermined at the time of serving the said writ; and it shall and may be lawful for the sheriff, or his deputy, to take into his possession all goods and chattels attached by the constable, as fully to all intents and purposes, as if the attachment issued by the justice had not been served, and the plaintiffs in said attachments shall be entitled to their several debts, with the costs that may have accrued, in proportion with the other creditors, as is before in this act mentioned and directed: *Provided always*, That no constable shall be obliged to remove any goods, taken into his custody by virtue of any attachment, after the same shall have been seized and attached by the sheriff.

Writ from a superior court to supersede an attachment before a justice.

35. *And be it enacted*, That the act, entitled "An act for the better enabling of creditors to recover their just debts from persons who abscond themselves," passed the sixteenth day of December, in the year of our Lord, one thousand seven hundred and forty-eight; and the act, entitled "An act to revive and amend an act, entitled an act for the better enabling creditors to recover their just debts from persons who abscond themselves,"

Certain acts repealed.

1798.

But such repeal not to affect antecedent actions.

passed the fifth day of December, in the year of our Lord, one thousand seven hundred and sixty; and the act, entitled "A supplementary act to the act, entitled an act for the better enabling of creditors to recover their just debts from persons, who absconded themselves," passed the first day of June, in the year of our Lord, one thousand seven hundred and ninety-two, and all and every other act or acts, clause or clauses of acts, coming within the purview of this act, be, and they are hereby repealed: *Provided nevertheless*, That such repeal shall not affect any writ of attachment heretofore issued by virtue of the said acts, or any of them; but such writ of attachment shall be proceeded upon to final judgment, sale, distribution, and effect, in the same manner as if this act had not been made.

See supplement, 30th May, 1820.

PAT. 302.

AN ACT ascertaining the times and places of holding the courts of common pleas and general quarter-sessions of the peace.

Passed the 8th of March, 1796.

Times and place of holding the courts of common pleas and quarter-sessions in Bergen.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Bergen, shall be held annually at New-Barbadoes, in the said county, on the fourth Tuesday of January, March and October, and the second Tuesday of June.

In Essex.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Essex, shall be held annually at Newark, in the said county, on the second* Tuesday of January and April, the fourth Tuesday of June, and the third Tuesday of September.

* First, by act of November 4, 1819.

In Middlesex.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Middlesex, shall be held annually at New-Brunswick, in the said county, on the third* Tuesday of December, the fourth* Tuesday of March and September, and the second Tuesday of June.

* Second, by act of February 9, 1801.

In Monmouth.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Monmouth, shall be held annually at Freehold, in the said county, on the fourth Tuesday of January, April and July, and the third Tuesday of October.

In Somerset.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Somerset, shall be held annually at Bridgewater, in the said county, on the first Tuesday of January and October, and the third Tuesday of April and June.

In Burlington.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Burlington, shall be held annually at Mount-Holly, in the said county, on the second Tuesday of February and August, the third* Tuesday of May, and the first Tuesday of November.

* Fourth, by act of February 13, 1801.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Gloucester, shall be held annually at Woodbury, in the said county, on the third Tuesday of March, the third Tuesday of June, the first Tuesday of October, and the second Tuesday of December. 1798.
In Gloucester.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Salem, shall be held annually at Salem, in the said county, on the first Tuesday of March and December, the second Tuesday of June, and the third Tuesday of September. In Salem.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Cape-May, shall be held annually at the middle township, in the said county, on the first Tuesday of February and August, the last Tuesday of May, and the fourth Tuesday of October. In Cape-May.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Hunterdon, shall be held annually at Flemington, in the said county, on the first Tuesday of February, May and August, and the fourth Tuesday of October. In Hunterdon.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Morris, shall be held annually at Morris-Town, in the said county, on the third Tuesday of March and December, the first Tuesday of July, and the fourth Tuesday of September. In Morris.

That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Cumberland, shall be held annually at Bridgetown, in the said county, on the *last** Tuesday of February, the fourth Tuesday of September, and the first Tuesday of June, and the last Tuesday of November. In Cumber-
land.
* Third, by act
of November
19, 1807.

And that the courts of common pleas and general quarter-sessions of the peace, in and for the county of Sussex, shall be held annually at Newton, in the said county, on the third Tuesday of February and August, and the fourth Tuesday of May and November. In Sussex.

2. *And be it enacted*, That the said courts of common pleas and general quarter-sessions of the peace may, respectively, be held and continued for so long time at each session, as the business thereof shall render necessary. May be held
until the busi-
ness is finished.

3. *And be it enacted*, That all writs and other process already issued, and returnable to the next term of any of the said courts, shall be returned on the days and at the places so as aforesaid established for holding the said courts, respectively; the day and place of return in the same writs and process mentioned notwithstanding. Time for re-
turning writs
that have is-
sued.

4. *And be it enacted*, That all acts and parts of acts coming within the purview of this act, shall be, and the same are hereby repealed. Former laws
repealed.

1798.

AN ACT respecting apprentices and servants.

PAT 306.

Passed the 14th of March, 1798.

Persons under age, legally bound, shall serve according to their indenture.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That if any male person, within the age of twenty-one years, or any female person, within the age of eighteen years, shall be bound by indenture, of his or her own free will and accord, and by and with the consent of his or her father, or, in case of the death of his or her father, by and with the consent of his or her mother, or guardian, to be expressed in such indenture, and signified by such parent or guardian, sealing and signing the same indenture, and not otherwise, to serve as a clerk, apprentice, or servant, in any art, craft, mystery, science, profession, trade, employment, manual occupation or labor, until, if a male, he arrive to the age of twenty-one years, and if a female, until she arrive to the age of eighteen years, or for any shorter time, then the said clerk, apprentice, or servant, so bound as aforesaid, shall serve accordingly.

Their ages shall be expressed in the indenture.

2. *And be it enacted,* That the age of every infant, who shall be bound to serve as a clerk, apprentice, or servant, according to the preceding section, shall be mentioned and inserted in his or her indentures.*

Indentures, &c., contrary to this act, to be void.

3. *And be it enacted,* That all indentures, covenants, promises, and bargains of or for the having, taking, or keeping of any clerk, apprentice, or servant, hereafter to be made or taken, otherwise than by this act, or by any act authorizing overseers of the poor and justices of the peace to bind out children in certain cases, is limited and prescribed, shall be utterly void in law, as against such clerk, apprentice, or servant only.

No deed of apprenticeship or servitude to be void for not being indented.

4. *And be it enacted,* That no deed, contract, agreement, or writing whatsoever, made or to be made for binding any person as a clerk, apprentice, or servant as aforesaid, after the passing of this act, shall be deemed to be void and of no effect, by reason of such deed, contract, agreement, or writing not being indented only.

Complaints between master and servant, &c., how settled, and abuses how corrected.

5. *And be it enacted,* That if any master or mistress shall be guilty of any misusage, refusal of necessary provision or clothing, unreasonable correction, cruelty, or other ill treatment, so that his or her said clerk, apprentice, or servant shall have any just cause to complain, or if the said clerk, apprentice, or servant shall absert himself or herself from the service of his or her master or mistress, or be guilty of any misdemeanor, miscarriage, or ill behaviour, or do not his or her duty to his or her master or mistress, then the said master or mistress, or the said clerk, apprentice, or servant, being aggrieved, and having just cause of complaint, shall repair to one justice of the peace, within the county where the said master or mistress dwells, who shall, in his wisdom and discretion, take such order and direction be-

* See supplement 18th February, 1820.

1798.

tween such master or mistress, and his or her clerk, apprentice, or servant, as the equity of the case shall require; and if the said justice of the peace cannot compound or agree the matter between such master or mistress, and his or her clerk, apprentice, or servant, then the said justice shall call to his assistance two other justices of the peace of the said county, unconnected with either of the said parties; which three justices, when met, shall constitute a court for the hearing of the said matters in difference, and, having heard the same, shall have authority to discharge, if they think proper, by writing, under their hands and seals, or the hands and seals of any two of them, the said clerk, apprentice, or servant, of and from his or her clerkship, apprenticeship, or service, and to order such part or proportion of the money as shall have been given, paid, contracted or agreed for, with or in relation to such clerk, apprentice, or servant, as they shall think just and reasonable, to be refunded or paid back to the person who paid the same, his or her executors, or administrators, or to be deducted, as the case may require; and such writing, as aforesaid, shall be a sufficient discharge for the said clerk, apprentice, or servant, against his or her master or mistress, and his or her executors and administrators, the said indenture, or any law to the contrary notwithstanding; and if the default shall be found to be in the clerk, apprentice, or servant, then the said court shall cause such due correction or punishment to be administered unto him or her as they shall deem to be just and reasonable; and if any person shall think himself or herself aggrieved by such adjudication of the said justices, he or she may appeal to the next court of general quarter-sessions of the peace in and for the county, where such adjudication shall have been made, such person giving six days notice of his or her intention of bringing such appeal, and of the cause and matter thereof, to the adverse party, and entering into a recognizance, within three days after such notice, before some justice of the peace of the said county, with sufficient surety, conditioned to try such appeal at, and abide the order or judgment of, and pay such costs as shall be awarded by the said court; which said court, at their said sessions, upon due proof, upon oath or affirmation of such notice being given, and of entering into such recognizance as aforesaid, shall be, and hereby are empowered and directed to proceed in, and hear and determine the cause and matter of such appeal, and give and award such judgment therein, with costs, to either party, appellant or respondent, as they in their discretion shall judge proper and reasonable.

Justices may discharge apprentices, &c.,

and may cause them to be corrected.

Appeal granted.

6. *And be it enacted*, That every person, who shall counsel, persuade, entice, aid or assist any clerk, apprentice, or servant, to run away, or absent himself or herself from the service of his or her master or mistress, shall forfeit and pay the sum of thirty dollars, to be sued for and recovered by action of debt, with costs, by such master or mistress, in any court of record having cognizance thereof.

Penalty for assisting a servant to run away, or absent himself,

7. *And be it enacted*, That every person, who shall entertain, harbor, or conceal any clerk, apprentice, or servant, knowing such

or for harboring a servant.

1798.

clerk, apprentice, or servant to have run away, shall forfeit and pay one dollar for every day's entertaining, harboring, or concealing as aforesaid, to be sued for and recovered by action of debt, with costs, by such master or mistress, in any court of record having cognizance thereof.

Servants, &c., who have run away may be compelled to serve double the time, and to pay or serve for damages and costs.

8. *And be it enacted*, That whenever a male servant, above the age of twenty-one years, or a female servant, above the age of eighteen years, shall abscond from his or her master or mistress's service, or run away, it shall be lawful for such servant, when apprehended, to be taken by such master or mistress before three justices of the peace of the county where such master or mistress resides, who, upon the hearing of the whole matter, shall adjudge the said servant to serve any term, not exceeding double the time he or she so absented him or herself, besides paying or serving for all damages and costs, which such master or mistress shall be adjudged to have sustained by such unlawful absence or departure.

An action may be brought against the servant for damages.

9. *And be it enacted*, That every clerk, apprentice, or servant, under the ages mentioned in the preceding section, who shall absent himself or herself from the service of his or her master or mistress, without leave first obtained, or who shall run away, so that the said master or mistress shall be deprived of his or her service during the remainder of the term, or any part thereof, for which he or she was bound to serve, then, and in such case, it shall be lawful for the master or mistress of such clerk, apprentice, or servant, to have an action on the case, in any court having cognizance thereof, against such clerk, apprentice, or servant, for the damage, that such master or mistress may have sustained by reason of the absence of such clerk, apprentice, or servant; provided such action shall be brought within the term of six years after such clerk, apprentice, or servant, shall arrive at full age.

Certiorari shall not be allowed.

10. *And be it enacted*, That no writ of certiorari, or other process, shall issue or be issuable, to remove, into the supreme court, any proceedings had in pursuance of this act, before any justice or justices of the peace, or before any court of general quarter-sessions of the peace.

Former act repealed.

11. *And be it enacted*, That the act, entitled "An act for regulating of white servants, and taking up soldiers and seamen deserting her majesty's service and coming into this colony," passed the eleventh day of March, in the year of our Lord, one thousand seven hundred and thirteen-fourteen, be, and the same is hereby repealed.

See supplement, passed 18th Feb. 1820.

AN ACT respecting slaves.

1798.

Passed the 14th of March, 1798.

PAT. 307.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That every negro, indian, mulatto, or mestee, within this state, who, at the time of passing this act, is a slave for his or her life, shall continue such during his or her life, unless he or she shall be manumitted and set free in the manner prescribed by law.

Slaves shall continue so, unless set free.

2. And be it enacted, That no slave shall be admitted a witness against any person in any matter, cause, or thing whatsoever, civil or criminal, except in criminal cases, in which the evidence of one slave shall be admitted for, or against another slave.

Slaves not to be witnesses, except against each other.

3. And be it enacted, That no person or persons shall trade or traffic, either in buying, bartering or selling, with any slave, without the leave or consent of the master or mistress of such slave, on pain of forfeiting three dollars, for each offence, to the master or mistress of such slave, to be recovered, with costs, against the person or persons so trading contrary to the true intent and meaning of this act, by action of debt, in any court having cognizance thereof; and also, that every contract or bargain, which shall be so made, with any slave, without the permission or consent of his or her master or mistress, shall be void and of no effect.

Penalty on persons trading with slaves without permission of their masters.

4. And be it enacted, That if any person or persons shall hereafter employ, harbor, conceal, or entertain any negro or other slave, knowing such negro or other slave to be the slave of any other person or persons, without the consent of the master, mistress, or owner of such slave, he, she or they shall forfeit to the master, mistress, or owner of such slave, the sum of four dollars for every twenty-four hours, and in that proportion for a greater or less time, while such slave shall have been employed, harbored, concealed, or entertained as aforesaid; which forfeiture or penalty shall be recovered by action of debt, with costs of suit, in any court having cognizance thereof. *Provided always*, That such forfeiture or penalty shall not in the whole exceed the value of such slave.

Penalty on persons employing or harboring slaves without the consent of their master.

5. And be it enacted, That if any person or persons shall be found guilty of harboring, entertaining or concealing any slave, or conveying, or assisting to convey away such slave, and if such slave shall be lost, die, or be otherwise destroyed, or shall be disabled, or rendered unserviceable, the person or persons, so harboring, entertaining, concealing, conveying, or assisting to convey away such slave, shall be liable to pay the value of such slave to the owner or owners, to be recovered by action of debt, or trespass on the case, with costs of suit, in any court having cognizance thereof.

Penalty, in case such slaves, so harbored, &c., shall be lost, disabled, &c.

6. And be it enacted, That if any person shall take up any negro or other slave at a distance of ten miles from the habitation of his or her master or mistress, who hath not permission in writing from his or her master or mistress, or is not known to be on his or her service or business, the person, so taking up

Reward for taking up slaves, if ten miles from home, without a pass, &c.

1798.

such slave, shall have for his reward one dollar, with reasonable charges for carrying him or her home, to be paid by the master or mistress of such slave; and in case of non-payment, to be recovered by action of debt, or trespass on the case, with costs of suit, in any court having cognizance thereof.

And slaves coming into this state from another state, without license,

7. *And be it enacted*, That if any negro or other slave, of or belonging to any inhabitant of any of the other states in the union, shall come into this state, without license under the hand of his or her master or mistress, or who is not known to be on his or her business or service, every such negro or other slave shall be taken up by any person in this state, and be carried before the next justice of the peace, who is hereby authorized and required, by a warrant under his hand and seal, to commit such slave to the gaol of the city or county; and the person, so taking up every such slave, shall have for his reward two dollars, to be paid by the master or mistress of such slave; and further, that such slave shall remain in prison till the same be paid, with all reasonable charges.

Penalty on slaves meeting together in a disorderly or tumultuous manner.

8. *And be it enacted*, That if any negro or other slaves shall meet and assemble together in a disorderly or tumultuous manner, any constable, or other person, on view or information thereof, shall and may require them immediately to disperse, and go to their respective places of abode; and if such slaves shall not forthwith disperse and retire accordingly, such constable, or other person, is hereby authorized, and it is especially made the duty of such constable, to apprehend such slaves, and carry them before the next justice or justices of the peace, who is and are hereby empowered and directed to inquire into the charges exhibited against such slaves, or any of them, and at his or their due discretion, according to the circumstances of the case, to send them, or any of them, to their respective master or mistress, or to commit them, or any of them, to the gaol of the city or county, there to remain for any space of time not exceeding one week, or, (if the master or mistress of any such slave or slaves shall signify their desire, either in person or by writing, to the said justice or justices) to order and direct such slaves, or any of them, to be whipped on the bare back by the said constable, not exceeding twenty lashes; and any of the said slaves, being committed to prison, shall there remain until the master or mistress shall satisfy all reasonable charges; and any of the said slaves being whipped, the master or mistress shall be liable to pay the said constable one dollar for each and every of his or her slaves so whipped.

Penalty on slaves being out after ten o'clock at night, or hunting on Sunday.

9. *And be it enacted*, That if any negro or other slave shall be seen or found from the dwelling-house of his or her master or mistress after the hour of ten at night, except on the particular business of his or her master or mistress, or shall be seen to hunt or carry a gun on the first day of the week, or christian Sabbath, commonly called Sunday, any constable or other person, on information or knowledge thereof, is hereby authorized, and it is especially made the duty of such constable, to apprehend and carry such negro or other slave before the next justice or justices of the peace, who, on examination of the matter, (if such slave

shall not give a good account of himself or herself) shall, at his or their due discretion, according to the circumstances of the case, do and act towards such slave in the same manner in all respects as by the preceding section of this act is prescribed; and any such slave, being committed to prison, shall there remain until the master or mistress shall satisfy all reasonable charges; and in case such slave shall be ordered to be whipped, then the master or mistress of such slave shall be liable to pay the constable for performing that service the sum of one dollar: *Provided*, That nothing in this, or the preceding section contained, shall be construed or taken to prevent any negro or other slave from going to any place of worship, or from any innocent recreation, or from doing any other reasonable act with his or her master's or mistress' consent.

1798.

10. *And be it enacted*, That no person or persons within this state shall, knowingly and willingly, suffer or permit his, her or their slave to go about begging of others, victuals, clothing, or other necessities, or money; and if any person or persons shall offend herein, he, she or they shall, for every such offence, forfeit the sum of eight dollars, to be recovered by action of debt, with costs of suit, in any court having cognizance thereof, by any person or persons, who will sue for the same, the one half thereof to be paid to the overseers of the poor of the township, where such offence shall be committed, and the other half to the person or persons, who shall prosecute for the same to effect.

Penalty on persons who shall suffer their slaves to go about begging.

11. *And be it enacted*, That if any person or persons shall, by any collusive conveyance, or fraudulent agreement, sell or dispose of, or pretend to sell or dispose of any aged or decrepit slave, to any person or persons, who is or are unable to keep and maintain such slave, such sale, or pretended sale, shall be absolutely void; and the person or persons making such sale, or pretended sale, shall forfeit the sum of forty dollars, for each offence, and shall, moreover, be deemed the owner or owners of such slave; which forfeitures shall be recovered and applied in the manner directed in and by the next preceding section of this act.

Penalty on selling slaves to persons who are unable to maintain them

12. *And be it enacted*, That from and after the passing of this act, it shall not be lawful for any person or persons, whatsoever, to bring into this state, either for sale or for servitude, any negro or other slave whatsoever; and every person offending, by bringing into this state any such negro or other slave, shall, for each slave, forfeit and pay the sum of one hundred and forty dollars, to be recovered by action of debt, with costs of suit, in any court having cognizance thereof, by the collector of the township into which such slave shall be brought, to be paid by such township collector to the county collector, and by him to the treasurer, for the use of the state. *Provided always*, That nothing in this act contained shall be construed to prevent any person, who shall remove into this state to take a settled residence here, from bringing all his or her slaves, without incurring any of the penalties aforesaid, or to prevent any foreigners or others, having only a temporary residence in this state, for the purpose of transacting

Penalty for bringing slaves into this state.

But this act not to extend to foreigners, travellers, or temporary residents.

1798.

any particular business, or on their travels, from bringing and employing such slaves as servants during the time of his or her stay here, provided such slave shall not be sold or disposed of in this state.

Citizens of this state may bring their slaves into the same for service, but not for sale.

13. *And be it enacted*, That any citizen of this state, who, at the time of the passing of this act, shall own any slave or slaves in any of the United States, shall have power and authority to bring any such slave or slaves into this state for servitude, and not for sale, without incurring any of the penalties or forfeitures mentioned in this act, upon producing a certificate to the collector of the city or township, into which the said slave or slaves may be brought, from any judge of the supreme court, or court of common pleas of the state from which such slave or slaves shall be brought, certifying that such slave or slaves was or were the property of the citizen so applying at the time of passing this act; and to the truth of the subject matter of the said certificate, the party producing it shall make oath before any judge or justice of this state, and shall file the said certificate in the clerk's office of the county, into which such slave or slaves is or are brought.

Forfeitures recovered by collectors to be paid into the treasury.

Penalty on collectors who shall neglect their duty.

14. *And be it enacted*, That all forfeitures, which may be recovered as aforesaid, shall, by the township collector recovering the same, be paid forward to the county collector, and by him be paid into the treasury; and if any collector shall be put to any necessary expense in prosecuting as aforesaid, he shall be credited for the same out of the public money in his hands; and in case any collector shall neglect or refuse to prosecute to effect, for any forfeiture incurred as aforesaid, he shall, for every such neglect or refusal, forfeit and pay the sum which he ought to have recovered, which, together with the sums recovered by any collector upon non-payment thereof, shall be sued for and recovered by action of debt, with costs of suit, in any court having cognizance thereof, by the treasurer of the state for the time being, for the use of the state.

Persons may be indicted for cruel treatment to their slaves.

15. *And be it enacted*, That it shall be the duty of the grand jury of every county in this state, to indict any person for inhumanly treating and abusing his or her slave, and the person so offending shall, on conviction, be punished by a fine not exceeding forty dollars; which fine shall be paid to the overseer of the poor, for the use of the township in which such offender shall reside.

Owners of slaves and negro servants, how far to educate them.

16. *And be it enacted*, That the owner or owners of any negro, or other slave or slaves, or of any negro, mulatto, or mestee servant or servants, for life or years, who shall have been born since the twenty-sixth day of November, in the year of our Lord, one thousand seven hundred and eighty-eight, and before the passing of this act, or who shall be born at any time after the passing of this act, shall cause every such slave or slaves, servant or servants, while under the age of twenty-one years, to be taught and instructed to read; and the owner or owners of any such slave or slaves, servant or servants, who shall neglect or refuse to cause such slave or slaves, servant or servants, to be taught and instructed as aforesaid, shall forfeit and pay thirty dollars, to

Forfeiture for neglect therein.

be recovered by action of debt, with costs of suit, in any court having cognizance thereof, by the overseers of the poor of the township, whose duty it is hereby expressly made to prosecute for the same, and to apply the moneys, when recovered, to the use of the poor.

1798.

17. *And be it enacted*, That if any person or persons shall fit out, equip, man, or otherwise prepare any ship or other vessel, to sail from any port or harbor of this state, for the purpose of carrying on a trade or traffic in slaves, to, from, or between Europe, Asia, Africa, or America, or any places or countries whatever, or of transporting slaves to or from one port or place to another, such ship or vessel, her cargo, tackle, furniture, apparel, and other appurtenances, shall be forfeited, and be liable to be seized by any justice of the peace, sheriff, or coroner, within this state, and prosecuted by such justice of the peace, sheriff, or coroner, making such seizure, by information in rem, in the supreme court, or the inferior court of common pleas of the county, within which such seizure shall be made.

Persons fitting out vessels for the slave trade, what to forfeit.

18. *And be it enacted*, That every ship or other vessel, with her cargo, tackle, furniture, apparel, and other appurtenances, so seized as aforesaid, and against which judgment shall be had and obtained, shall, by order of the court, in which such judgment was so had, be sold at public vendue by the sheriff of the county, unless the said sheriff be a party to the prosecution, and then by the coroner of the county in which the said seizure was made, who, after deducting all legal costs and charges, to be taxed by one of the judges of the court, in which the said judgment was had, is hereby ordered and directed, to pay seven-eighth parts of the nett proceeds thereof to the collector of the county, in which such seizure was made, for the use of the state, and the remaining eighth part thereof to the person or persons, who made the seizure, and prosecuted the same to effect: and the said sheriff or coroner, by whom the said sale shall be made, is hereby entitled to receive and take out of the proceeds of the said sale, one per cent. for his trouble.

Vessels forfeited, to be sold.

Money arising from the sale, how to be appropriated.

19. *And be it enacted*, That if any master, seaman, or other person, on board any ship or other vessel, so liable to be seized as aforesaid, shall refuse, or not suffer to enter, or resist, before or after entering on board such ship or vessel, any such person or persons attempting to enter on board, or being already entered on board such ship or other vessel for the purpose of making such seizure as aforesaid, every person, so refusing or resisting, shall forfeit and pay the sum of one hundred and thirty dollars, to be recovered by the person or persons so resisted, in an action of debt, with costs of suit, in any court of record in this state, having cognizance thereof, one half part for the use of the state, and the other half part for the use of the person or persons, who shall prosecute the same to effect.

Master or others on board resisting a person attempting to seize, to forfeit one hundred and thirty dollars.

20. Repealed, and supplied by act, February 24, 1820.

21. *And be it enacted*, That it shall and may be lawful for the owner of any negro or other slave, to manumit and set free such slave, by writing under hand and seal, executed in the presence

Slaves between the ages of twenty-one and forty, how to be manumitted.

1793.

of at least two witnesses, provided such slave, at the time of such instrument of manumission being executed, shall be sound in mind, and not under any bodily incapacity of obtaining a support, and shall not be under the age of twenty-one years, nor above the age of forty years; *And provided also*, That the owner of such slave shall, previous to the execution of such instrument of manumission, obtain a certificate, signed by two of the overseers of the poor of the township, and any two justices of the peace of the county, wherein such owner shall reside, and also cause such certificate to be recorded in the office of the clerk of the said county; for which service the said clerk shall be entitled to one shilling; which certificate shall be in the words, or to the effect following:

Form of the
certificate of
manumission.

county, to wit. We do hereby certify, that on this
day of in the year of our Lord, one thousand
A. B. of the township of in the said county of brought
before us, two of the overseers of the poor of the said township,
and two of the justices of the peace of the said county, his (or her)
slave, named who, on view and examination, appears to us
to be sound in mind, and not under any bodily incapacity of ob-
taining a support, and also is not under the age of twenty-one
years nor above the age of forty years. In witness whereof, we
have hereunto set our hands, the day and year above written.

C. D. }
E. F. } Overseers of the poor of the said township of

G. H. }
I. K. } Justices of the peace in and for the said county of

That upon such certificate, being so signed and recorded as aforesaid, and such instrument of manumission, being so executed as aforesaid, such slave shall be deemed and adjudged to be free; and the owner of such slave shall be exonerated and acquitted from all costs and charges, which may arise for the support of such slave so manumitted, except his or her proportion of any tax or assessment, that thereafter may be laid for the support of the said slave.

Slaves be-
tween the
ages of twen-
ty-one and
forty may be
manumitted
by last will
and testament,
and how.

How slaves
under the age
of twenty-one,
or above the
age of forty
may be manu-
mitted.

22. *And be it enacted*, That if any person, by his or her last will and testament, shall give his or her slave freedom, such slave, being at the time of the death of the testator or testatrix, sound in mind, and not under any bodily incapacity of obtaining a support, and also not under the age of twenty-one years, nor above the age of forty years, to be certified in manner aforesaid, then such freedom shall be good and effectual in law.

23. *And be it enacted*, That if the owner or owners of any other slave, than such as is described in the two sections next preceding, be disposed to manumit and set free such other slave, and such owner or owners, or any other sufficient person, for and in behalf of such slave, shall and do, at the court of common pleas of the county where such slave shall reside, enter into a bond to the state of New-Jersey, with at least two sureties, being inhabitants and freeholders of and in the said county, to be

approved by such court, in a sum not less than five hundred dollars, to prevent and keep such slave from becoming or being any charge to any township, place, or county in this state, then such slave shall be free, according to such manumission of his or her owner. *Provided*, That such manumission be in writing, signed and sealed by the owner or owners of such slave, in the presence of at least two witnesses. *And further*, That if any such slave of the description contained in this section shall be made free by the last will and testament of any person deceased, and if the executor or executors of such last will and testament, or, in case of the neglect or refusal of such executor or executors, if any other sufficient person, shall and do, within six calendar months after proving the said last will and testament, enter into a bond, with sureties, and in manner aforesaid, then the said slave shall be free, according to the true intent and meaning of such last will and testament; but if in any of the cases mentioned in this section, such bond be not entered into in the manner aforesaid, then the said manumission shall be absolutely void and of no effect.

24. *And be it enacted*, That all slaves, manumitted after the passing of this act, shall be discharged and exonerated, after he or she arrives to the age of forty years, from the payment of any bond, note, or other contract, or performance of any indenture, that shall have been obtained against him or her in consequence of such manumission.

25. *And be it enacted*, That the legal settlement of every slave, manumitted agreeably to the directions of this act, who shall be likely to become a public charge, shall be in that township or place in this state where the owner, manumitting such slave, may have a legal settlement at the time of such manumission. *Provided*, That nothing in this section contained, shall be construed to prevent any slave so manumitted, from afterwards gaining a legal settlement in any other township, in the same manner as white persons may gain a legal settlement by virtue of the existing laws of this state.

26. *And be it enacted*, That every owner of any negro or other slave, not manumitted according to the directions of this act, his or her heirs, executors or administrators, shall be obliged, at all times, to support and maintain such slave. *Provided*, That if any such owner shall become insolvent, and so unable to provide for and maintain his or her slave, who shall, by sickness or otherwise, be rendered incapable of supporting himself or herself, then such slave shall be deemed to be a pauper, whose legal settlement shall follow the legal settlement in this state of his or her owner.

27. *And be it enacted*, That no free negro or mulatto, of or belonging to any other state in the union, shall be permitted to travel or reside in this state, without a certificate from two justices of the peace of such other state, that such negro or mulatto was set free, or deemed and taken to be free in that state; and if any inhabitant of this state, shall harbor, conceal, or employ any such negro or mulatto, so coming into this state, not having a certificate as aforesaid, or suffer any such negro or mulatto, not

1798.

Slaves giving bond, &c., for manumission, to be discharged therefrom after their arrival at the age of forty.

Settlement of manumitted slaves.

Owner of slaves, not manumitted according to law, to maintain them; but if the owner not able, then the township.

Free negroes, from other states, not to travel or reside, or be employed or harbored in this state, without a certificate.

1796.

having a certificate as aforesaid, to live on his or her land, or in his or her house, or other tenement, for one week, knowing such negro or mulatto to belong to any other state, then every person, so offending, shall forfeit and pay twelve dollars for every week he or she shall harbor, conceal, employ, or furnish such negro or mulatto with house or land as aforesaid, to be recovered by action of debt, with costs of suit, by and to the use of any person who shall sue for the same, in any court where the same may be cognizable.

Free negroes of this state not to go out of their proper county, without a certificate.

28. *And be it enacted*, That no free negro or mulatto, of or belonging to this state, shall be permitted to travel or remain in any county in this state, other than in the county where his or her place of residence may lawfully be without a certificate from two justices of the peace of the county, in which he or she belonged, or from the clerk of the county, under the seal of the court, certifying that such negro or mulatto was set free, or deemed and taken to be free in such county.

Proceedings in habeas corpus, respecting negroes, what and how to be conducted.

29. *And be it enacted*, That when any habeas corpus shall be brought to remove any negro, mulatto, mestee, or indian, before the supreme court, out of the possession or custody of any person or persons claiming the service of such negro, mulatto, mestee, or indian, for life, years, or other term, the person or persons, to whom the said habeas corpus is directed, may, in the return to the same writ, aver and set forth, that he, she or they has or have lawful right to the personal service of the said negro, mulatto, mestee, or indian, for life, years, or other term, as the case may be; whereupon the prosecutor shall instantly join issue by denying the right of the defendant or defendants to the personal service of such negro, mulatto, mestee, or indian, either for life, years or other term, and immediately upon the joinder of the said issue, the court shall award a venire facias to the sheriff, or coroner, as the case may require, of the county in which such party defendant resides, commanding him or them to summon a jury to appear at the next circuit court to be held in such county for the trial of the issue so joined as aforesaid.

Former acts repealed.

30. *And be it enacted*, That the act, entitled "An act for regulating slaves," passed the eleventh day of March, in the year of our Lord, one thousand seven hundred and thirteen-fourteen; and the act, entitled "An act to restrain tavern-keepers and others from selling strong liquors to servants, negroes and mulatto slaves, and to prevent negroes and mulatto slaves from meeting in large companies, from running about at nights, or from hunting or carrying a gun on the Lord's day," passed the twenty-third day of October, in the year of our Lord, one thousand seven hundred and fifty-one; and the act, entitled "An act to regulate the trial of slaves for murder and other crimes, and to repeal so much of an act, entitled an act to regulate slaves, as relates to their trial for murder and other capital offences," passed the tenth day of May, in the year of our Lord, one thousand seven hundred and sixty-eight, and the act, entitled "An act for laying a duty on the purchasers of slaves imported into this colony," passed the sixteenth day of November, in the year

of our Lord, one thousand seven hundred and sixty-nine, and the act, entitled "An act to prevent the importation of slaves into the state of New-Jersey, and to authorize the manumission of them under certain restrictions, and to prevent the abuse of slaves," passed the second day of March, in the year of our Lord, one thousand seven hundred and eighty-six, and the supplement thereto, passed the twenty-fourth day of November, in the year of our Lord, one thousand seven hundred and eighty-eight, be, and the same are hereby repealed.

See act, 24th February, 1820.

1798.

AN ACT concerning trespasses by swine.

PAT. 324.

Passed the 15th of March, 1798.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for any freeholder within this state, his servant or tenant, finding swine trespassing on his or her enclosed land, to kill such swine, and inform the owner thereof, if easily to be found, and if no owner can be so found, or, if found, shall not appear and take such swine away, then the person injured shall, within fifteen hours after such killing, give notice to the overseers or overseer of the poor of the township, who shall dispose of such swine for the use of the poor of the township, where the same was killed.

Swine trespassing on enclosed lands may be killed.

2. *And be it enacted,* That if any such person as aforesaid shall find swine trespassing on his or her land, for which he or she shall pay taxes, whether the same be enclosed or not, and do not choose to kill such swine, as in the preceding section is allowed and directed, then such person may take and put such swine into his or her yard or other enclosure, and give notice to the owner, if easily to be found, who shall pay double damages to the person injured, to be appraised and certified in writing by two reputable freeholders, to be chosen by the parties; and if the owner of such swine shall refuse or neglect, for twenty-four hours after notice, to choose one of the said appraisers, or if such owner cannot easily be found, then the person injured may choose them both himself; and in case the appraisers so chosen cannot agree in the appraisement to be made, then the said appraisers may choose a third person to join them therein, any two of whom agreeing, their appraisement, made and certified as aforesaid, shall be binding and conclusive, and double the sum so appraised shall and may be recovered by action of debt, with costs of suit, in any court where the same may be cognizable.

Damages for trespass done by swine, how to be ascertained and recovered.

3. *And be it enacted,* That if inquiry be made, and no owner appears and pays the damages, so as aforesaid appraised, within three days after such appraisement, it shall and may be lawful for the person injured to set up advertisements, at three of the most public places next adjacent to where the trespass was committed, describing the number of the said swine, and the natural or artificial marks thereon; and if no owner shall appear within

In what cases swine shall be sold to pay the damages.

1798.

two weeks from the date of such advertisement, and pay the damage, and also the expense of keeping, to be appraised as aforesaid, then it shall and may be lawful for the overseers or overseer of the poor of the township, where the said trespass was committed, to sell the said swine, so advertised as aforesaid, at public vendue, and after paying the damage and expense of keeping, and retaining fifty cents for his or their attendance on the sale and collecting the money, to apply the overplus, if any there be, to the use of the poor of the said township.

Former act repealed.

4. *And be it enacted*, That the act, entitled "An act for recovering damages for trespasses done by swine," passed the sixth day of December, in the year of our Lord, seventeen hundred and sixty-nine, and all other acts, coming within the purview of this act, be, and the same are hereby repealed.

PAT. 324.

AN ACT for preventing injuries to the breed of horses.

Passed the 15th of March, 1798.

Penalty for suffering stone-horses of the age of 18 months, to run at large.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That no person shall suffer a stone-horse of the age of eighteen months, whereof he is owner; or hath the keeping, to run at large out of the enclosed ground of the owner or keeper; and whosoever shall wilfully or negligently do so, after having notice thereof, and been admonished to confine such horse, shall forfeit and pay the sum of ten dollars, to be recovered by any person, who shall sue for the same, in an action of debt, with costs of suit, in any court having cognizance thereof.

Former act repealed.

2. *And be it enacted*, That the act, entitled "An act for preventing small stone-horses running at large in this province," passed the eighth day of July, in the year of our Lord, seventeen hundred and thirty, shall be, and the same is hereby repealed.

PAT. 329.

AN ACT for suppressing vice and immorality.

Passed the 10th of March, 1796.

Business, work, and diversion prohibited on the Sabbath, upon the penalty of one dollar.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That no travelling, worldly employment or business, ordinary or servile labor or work, either upon land or water, (works of necessity and charity excepted) nor shooting, fishing, (not including fishing with a seine or net, which is hereafter provided for) sporting, hunting, gunning, racing, or frequenting of tippling houses, nor any interludes or plays, dancing, singing, fiddling, or other music for the sake of merriment, nor any playing at foot-ball, fives, ninepins, bowls, long bullets, or quoits, nor any other kind of playing, sports, pastimes or diversion, shall be done, perform-

ed, used or practised by any person or persons, within this state, on the christian Sabbath, or first day of the week, commonly called Sunday; and that every person, being of the age of fourteen years or upwards, offending in the premises, shall, for every such offence, forfeit and pay, to the use of the poor of the township, in which such offence shall be committed, the sum of one dollar; and that no person shall cry, shew forth, or expose to sale, any wares, merchandises, fruit, herbs, meat, fish, goods or chattels, upon the first day of the week, commonly called Sunday, or sell or barter the same, upon pain, that every person, so offending, shall forfeit and pay to the use of the poor of the township, where such offence shall be committed, the sum of two dollars; and if any person, offending in any of the premises, shall be thereof convicted before any justice of the peace for the county where the offence shall be committed, upon the view of the said justice, or confession of the party offending, or proof of any witness or witnesses upon oath or affirmation, then the said justice, before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county where the offence shall have been committed, commanding him to levy the said forfeitures or penalties by distress and sale of the goods and chattels of such offenders, and to pay the money therefrom arising to the overseers of the poor of the township, where the said offence or offences shall have been committed, for the use of the poor thereof; and in case no such distress can be had, then every such offender shall, by a warrant under the hand and seal of the said justice, be set publicly in the stocks for any space of time not exceeding four hours. *And further*, That if any person shall be found fishing, sporting, playing, dancing, fiddling, shooting, hunting, gunning, travelling, or going to, or returning from, any market or landing, with carts, waggons or sleds, or behaving in a disorderly manner on the first day of the week, called Sunday, it shall be lawful for any constable, or other citizen, to stop every person so offending, and to detain him or her till the next day, to be dealt with according to law. *Provided always*, That no person going to or returning from any church or place of worship, within the distance of twenty miles, or going to call a physician, surgeon, or midwife, or carrying a mail to or from any post-office, or going express by order of any public officer, shall be considered as travelling within the meaning of this act. *And provided also*, That nothing in this act contained shall be construed to prohibit the dressing of victuals in private families, or in lodging houses, inns, and other houses of entertainment for the use of sojourners, travellers or strangers.

2. *And be it enacted*, That no person shall, on the first day of the week, called Sunday, cast, draw or make use of any seine or net, for the purpose of catching fish in any pond, lake, stream or river within the territorial limits or jurisdiction of this state, or be aiding or assisting therein; and every person, offending in the premises, shall, on being thereof convicted before any justice of the peace for the county, where the offence shall be committed, upon the view of the said justice, or confession of the party of-

1798.

Persons selling or offering to sell goods, &c., on the Sabbath, to forfeit two dollars.

Forfeitures, how to be recovered and applied.

If no goods, from whence to make the forfeiture, the offender to be put in the stocks.

Persons fishing, travelling, hunting, &c., on the Sabbath, may be stopt.

Penalty for drawing a seine or net on the Sabbath.

1798.

fending, or proof of any witness or witnesses upon oath or affirmation, forfeit and pay the sum of fourteen dollars for every such offence; and in case of non-payment of the said forfeiture, then the said justice, before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal, to some constable of the county in which the offence shall have been committed, commanding him to levy the said forfeiture or penalty, by distress and sale of the goods and chattels of such offender, and to pay the money therefrom arising to the overseers of the poor of the township, where the said offence shall have been committed, for the use of the poor thereof; and for want of goods and chattels whereby to make such distress, to convey the body of the said offender to the common gaol of the county, there to remain in safe custody until the said forfeiture, with the costs of prosecution, shall be fully paid, or until such offender shall be delivered by due course of law.

Persons keeping the seventh day of the week to be exempt from answering process, &c.

3. *And be it enacted*, That every inhabitant of this state, who religiously observes the seventh day of the week as the Sabbath, shall be exempt from answering to any process, in law or equity, either as defendant, witness, or jury, except in criminal cases; likewise from executing, on the said day, the duties of any post or office, to which he may be appointed or commissioned, except when the interest of the state may absolutely require it, and shall also be exempt from working on the highways, and doing any militia duty on that day, except when in actual service.

Such persons to be exempt from fine for laboring on the seventh day.

4. *And be it enacted*, That if any person, charged with having labored or worked on the first day of the week, commonly called Sunday, shall be brought before a justice of the peace to answer the information and charge thereof, and shall then and there prove, to the satisfaction of the said justice, that he or she uniformly keeps the seventh day of the week as the Sabbath, and habitually abstains from following his or her usual occupation or business, and from all recreation, and devotes the day to the exercise of religious worship, then such defendant shall be discharged. *Provided always*, That the work or labor, for which such person is informed against, was done and performed in his or her dwelling-house or work-shop, or on his or her premises or plantation, and that such work or labor has not disturbed other persons in the observance of the first day of the week as the Sabbath: *And provided also*, That nothing in this section contained shall be construed to allow any such person to openly expose to sale any goods, wares, merchandise, or other article or thing whatsoever, in the line of his or her business or occupation.

Proviso.

Penalty for driving stages on Sunday.

5. *And be it enacted*, That if any stage or stages shall be driven through any part of this state on the first day of the week, called Sunday, except sufficient reason shall be offered to shew that it be done in cases of necessity or mercy, or in case of carrying the mail to or from any post-office, the driver or drivers, proprietor or proprietors of such stage or stages, shall, on being thereof convicted before any justice of the peace for the county, where the offence shall be committed, upon the view of the said justice, or confession of the party offending, or testimony of any

witness or witnesses, forfeit and pay the sum of eight dollars for every such offence; and in case of non-payment of the said forfeiture or penalty, then the same shall be levied, recovered and applied in the manner and form prescribed in and by the second section of this act; and every justice of the peace in this state is hereby empowered and required, upon his personal knowledge or view, or other due information, of any stage or stages being driven or run through any part of this state as aforesaid, to stop and detain the same, or order and direct the same to be stopped and detained, at the costs and expense of the proprietor or proprietors of such stage or stages, until the following day, and then to be dealt with as herein before is directed.

1798.

6. *And be it enacted*, That no waggoner, carter, drayman, driver, butcher, or any of his or their servants, shall ply, or travel with his or their waggons, carts or drays, or shall load or unload any goods, wares, merchandise, or produce, or drive cattle, sheep or swine, in any part of this state, on the first day of the week, called Sunday, under the penalty of two dollars, for every offence, to be levied, recovered, and applied, in the manner and form prescribed in the second section of this act.

Penalty for driving carts, drays, &c., on Sunday.

7. *And be it enacted*, That no person or persons, upon the first day of the week, commonly called Sunday, shall serve or execute, or cause to be served or executed, any writ, process, warrant, order, judgment or decree, (except in criminal cases, or for breach of the peace) but that the service of every such writ, process, warrant, order, judgment, or decree, shall be void to all intents and purposes whatsoever; and the person or persons, so serving or executing the same, shall be as liable to the suit of the party grieved, and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment or decree.

No process, unless in criminal cases, to be served on Sunday.

8. *And be it enacted*, That if any person or persons shall, at any time or times hereafter, profanely swear or curse, and be thereof convicted, by the confession of the party offending, or on the testimony of any one or more witness or witnesses, or in the manner herein after mentioned, before any justice of the peace for any county in the state, every person so offending, shall for every such offence, forfeit and pay to the use of the poor of the township, where such offence or offences shall be committed, the sum of one half of a dollar.

Penalty for swearing or cursing.

9. *And be it enacted*, That in case any person shall profanely swear or curse, in the presence and hearing of any justice of the peace for any county, while in the execution of his office, every such justice of the peace shall, and is hereby authorized and required to convict every such offender of such offence, without any other proof whatsoever.

Any person swearing or cursing in the presence or hearing of a justice of the peace, in the execution of his office, to be convicted without other proof.

10. *And be it enacted*, That in case any person, who shall be convicted of profanely swearing or cursing, shall not immediately pay down the respective sums so forfeited, with the charges of such conviction, or give security, to the satisfaction of the justice, before whom such conviction is had, for the payment thereof within six days, then every such offender, being above the age

The offender, if above fourteen years, to be put in the stocks, or com-

1798.

mitted on non-payment of the fine for swearing or cursing.

If not above that age, the parent or master to pay.

Persons convicted of drunkenness, how punished.

of fourteen years, shall, by warrant under the hand and seal of such justice, be set publicly in the stocks for any space of time not exceeding two hours for any single offence, or for any number of offences, whereof any such offender shall be convicted at one and the same time, any space of time not exceeding four hours, or be sent to the common gaol of the county, there to be and stand committed for any space of time, to be certainly expressed in the said warrant, not exceeding four days; but if the offender shall not be above the age of fourteen years, and shall not forthwith pay the said forfeiture, or give security for payment thereof, the parent or master shall pay the same, to be recovered by distress and sale of the goods and chattels of such parent or master.

11. *And be it enacted*, That if any person shall become intoxicated or drunk by the excessive use of spirituous, vinous, or other strong liquor, and thereof shall be convicted before any justice of the peace for the county, wherein such offence shall be committed, either upon the view of such justice, or upon the confession of the party offending, or testimony of any one or more witness or witnesses, every person so offending shall forfeit and pay, for every such offence, one dollar, to the use of the poor of the township, wherein such offence shall be committed; and in case any person, who shall be convicted of drunkenness as aforesaid, shall not immediately pay down the sum so forfeited, with the charges of such conviction, or give security, to the satisfaction of the justice before whom such conviction is had, for the payment thereof within three days, every such offender shall, by warrant under the hand and seal of such justice, be set publicly in the stocks for any space of time not exceeding four hours, or be sent to the common gaol of the county, there to be and stand committed for any space of time, to be certainly expressed in the said warrant, not exceeding four days.

12. *And whereas* public shews and exhibitions of divers kinds have of late become very frequent and common within this state, whereby many strangers and worthless persons have unjustly gained and taken to themselves considerable sums of money, and it being found on experience, that such shews and exhibitions tend to no good or useful purpose in society, but, on the contrary, to collect together great numbers of idle and unwary spectators, as well as children and servants, to gratify vain and useless curiosity, loosen and corrupt the morals of youth, and straiten and impoverish many poor families, *Be it further enacted by the authority aforesaid*, That if any person or persons whatsoever shall, for any price, gain or reward, shew forth, exhibit, act, represent or perform, or cause to be shewn forth, exhibited, acted, represented or performed, on any public stage, or in any public house, or other place whatever, any interludes, farces or plays of any kind, or any games, tricks, juggling, slight of hand, or feats of uncommon dexterity and agility of body, or any bear-baiting, or bull-baiting, or any such like shews or exhibitions whatsoever, every person so offending, and being thereof convicted before any justice of the peace of the county, where the offence shall

Penalty for exhibiting plays or shows, &c.,

1798.

be committed, upon the view or personal knowledge of the said justice, or confession of the offender, or proof of any witness or witnesses upon oath or affirmation, shall, for every such offence, forfeit and pay to the use of the poor of the township, where such offence shall be committed, the sum of sixteen dollars, to be levied, recovered and applied in the manner and form prescribed in the second section of this act. *Provided always*, That nothing in this section contained shall be deemed or construed to prevent the shew or exhibition of any natural curiosity. *And provided also, and be it further enacted*, That if in the opinion of any three justices of the peace of any county, city or town corporate, where any interlude, farce or play is proposed to be performed, it shall be deemed that such interlude, farce or play is innocent, or may probably tend to answer any reasonable or useful end, it shall and may be lawful for them, at their discretion, on application for that purpose, to give license in writing for such interlude, farce or play to be performed, any thing herein before contained to the contrary notwithstanding.

unless licensed by the justice.

13. Repealed and supplied by act, 21st February, 1811.

14. *And be it enacted*, That every justice of the peace shall immediately on information given upon oath or affirmation of any constable or peace officer, or of any other person whatsoever, cause the offender and offenders against this act to appear before him, and upon such information being proved as aforesaid, shall convict such offender and offenders in such manner as in and by this act is prescribed.

Justices, on information, to cause offenders against this act to be brought before them for conviction.

15. *And be it enacted*, That every justice of the peace, before whom any person or persons shall be, by virtue of this act, convicted of any of the offences aforesaid, shall cause such conviction to be drawn up in the form following:

Hunterdon county, (or other county, as the case may require) to wit: Be it remembered, that on the _____ day of _____ in the year of our Lord, one thousand

Form of conviction.

A. B. was convicted before me, C. D. one of the justices of the peace of the said county, of crying (or shewing forth, or exposing to sale) one (or two, or more, specifying the number, quantity and kind of goods) on a Sunday, in the township of _____ in the said county of _____ (or, of travelling, or doing ordinary or servile work or labor, or of shooting, fishing, sporting, playing, hunting, gunning, or frequenting tippling-houses, or using some unlawful exercise, or pastime) on Sunday, or of swearing one (or, two, or more) profane oath or oaths, or of cursing one (or two, or more) profane curse or curses, or of having been drunk, at the township of _____ in the said county; as the case may require. Given under my hand and seal the day and year above said.

Conviction not to be removed by certiorari.

And such conviction shall not be liable to be removed by certiorari into the supreme court; but if the person offending shall think himself aggrieved by any such conviction, it shall and may be lawful for such person to appeal to the next court of general quarter-sessions of the peace of the county, where such conviction

Appeals may be had to the sessions.

1798.

tion is had; which court shall, in a summary way, hear and determine such appeal, and confirm such conviction, with costs, or reverse the same, as to them shall seem right and proper. *Provided*, That no person shall be entitled to an appeal, unless such person shall first pay down to the justice the penalty and costs of prosecution awarded against him, to be returned to such person, in case, upon the appeal, the conviction thereof had, shall be reversed.

Offenders to
pay charges of
conviction.

16. *And be it enacted*, That all charges of the information and conviction of any such offender shall be borne and paid by the party offending, if able, over and above the penalties inflicted by this act, which charges shall be settled and ascertained by the justice before whom such conviction shall be had, but shall in no case exceed, in the whole, one dollar; and the justice before whom any proceedings shall be had upon this act, or his clerk, may take, for the information, summons, conviction, and warrant thereupon, forty cents, and no more; and if the offender shall be set in the stocks for the same offence, no charges whatsoever shall be paid by any person whomsoever.

Offenders a-
gainst this act
may pay for-
feitures to the
justice before
whom they
were convict-
ed.

17. *And be it enacted*, That it shall and may be lawful for every such offender to pay the said forfeitures and charges to the justice before whom such conviction is had; and such justice shall receive the same, and, as soon as conveniently may be, pay the same forfeitures to the overseers of the poor of the township where such offence was committed, for the use of the poor thereof.

Justices to put
this act in ex-
ecution.

18. *And be it enacted*, That all and every justice and justices of the peace for the county wherein any such offences shall be committed, may, and they are hereby respectively authorized and required, to put this act into execution against any person or persons within their respective jurisdictions, although such justice shall be rated and pay to the relief of the poor of the township where any offence, contrary to the true intent and meaning of this act, shall be committed.

Prosecutions
to be had with-
in thirty days.

19. *And be it enacted*, That no person shall be prosecuted or troubled for any offence against this act, unless the same be proved or prosecuted within thirty days after the commission of such offence.

Justice, con-
stable, &c., if
prosecuted un-
der this act,
may plead the
general issue.

20. *And be it enacted*, That if any suit or action shall be commenced or brought against any justice of the peace, constable, or other officer or person whatsoever, for doing, or causing to be done, any thing in pursuance of this act, concerning any of the said offences, the defendant in such action or suit may plead the general issue, and give the special matter in evidence; and if in any such action or suit, a verdict shall be given for the defendant, or the plaintiff become nonsuit, or discontinue his action, then the defendant shall have treble costs.

Former acts
repealed.

21. *And be it enacted*, That the act, entitled "An act for suppressing of immorality," passed the twelfth day of December, in the year of our Lord, one thousand seven hundred and four; and the act, entitled "An act to promote the interest of religion and

morality, and for suppressing of vice among all ranks of people within this state," passed the twelfth day of June, in the year of our Lord, one thousand seven hundred and ninety; and the act, entitled "An act for the relief of certain religious societies in this state," passed the twentieth day of November, in the year of our Lord, one thousand seven hundred and ninety, and every act and parts of acts coming within the purview of this act, shall be, and they are hereby repealed.

1798.

AN ACT respecting bridges.

PAT. 383.

Passed the 5th of November, 1798.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That when it shall be necessary to erect, rebuild, or repair, any bridge in a township, or between any two townships in the same county, the expense whereof shall exceed one hundred and fifty dollars, it shall be the duty of the overseer of the highway, within whose limits or division the same may be, or either of the overseers of the highways of the adjoining townships, to give notice thereof in writing, under his hand, to the director of the board of chosen freeholders of the county, or in case of his absence, inability, or death, to the clerk of such board, who shall thereupon convene, (in the like manner, and under the like penalties, as if such notification had been made and subscribed by any three of the chosen freeholders) the said board or corporation, for the purpose of their considering and deciding upon the utility and necessity of erecting, rebuilding, or repairing the said bridge.

Bridges, how to be built or repaired, where the expense exceeds one hundred and fifty dollars.

2. *And be it enacted,* That when the expense of erecting, rebuilding, or repairing any necessary bridge in a township, or between any two townships in the same county shall not exceed one hundred and fifty dollars, it shall be the duty of the overseer of the highways, within whose limits or division the same may be, or either of the overseers of the highways of the adjoining townships, to give notice thereof in writing, under his hand, to the chosen freeholders of such township, and of the two next adjacent townships, and in such notice to appoint the time and place of their meeting, for the purpose of taking the same under their consideration; and the said chosen freeholders, or a majority of them, are hereby authorized to order, if they think proper, the said bridge to be built, rebuilt, or repaired, and to superintend, or contract for the doing thereof; and for defraying the expense, the director of the board of chosen freeholders shall draw upon the county collector, who is hereby empowered and required forthwith to pay the same out of any county moneys in his hands, provided it does not exceed the aforesaid sum of one hundred and fifty dollars.

Bridges, whose expense will not exceed one hundred and fifty dollars, how to be built or repaired.

3. *And be it enacted,* That where the expense of repairing such bridge shall not exceed thirty dollars, inclusive of the necessary materials, it shall and may be lawful for the oversear of

Bridges, whose expense will not exceed thirty dollars, how to be repaired.

1798.

the highways, within whose limits and division the same may be, and the two chosen freeholders of the said township, or the major part of them, to direct such bridge to be repaired, and to superintend or contract for the doing thereof; and for defraying the amount of the said expense, not exceeding the sum aforesaid, the director of the said board shall draw on the county collector, who is hereby authorized to pay such order out of any county moneys in his hands.

The breadth,
&c. of small
bridges.

4. *And be it enacted*, That every small bridge, to be built by virtue of this or any other act, shall be at least twelve feet in breadth, have four or more good sleepers, and be covered with sound and substantial logs, poles, or plank, well squared and fixed down, and as closely joined as the nature of such materials will admit.

Bridges, be-
tween coun-
ties, to be built
at joint ex-
pense.

5. *And be it enacted*, That the expense of building, rebuilding, or repairing any bridge between two counties shall be equally borne by such counties.

This act not to
affect toll-
bridges, &c.

6. *And be it enacted*, That this act shall not extend to, or affect any toll-bridge, being private property, or any bridge, for which any township receives toll, unless the inhabitants of such township shall, at their annual or other meeting, relinquish, and for ever forego their right to such toll, or any bridge, which private individuals are bound by law or contract to make and keep in repair, or to contribute thereto in any degree above their ordinary and ratable proportion in the way of taxation, except so far as such contribution shall be inadequate. *Provided always*, That no toll-bridge, or any other bridge, being private or incorporated property, shall become a county charge, until a majority of the chosen freeholders of the said county shall consent and agree to the same.

Repealing
clause.

7. *And be it enacted*, That every act, clause, and part of act and acts, within the purview of this act, be, and they hereby are repealed.

PAT. 334.

AN ACT for the safe-keeping of the books and papers of the auditor's office.

Passed the 6th of November, 1798

Books in audi-
tor's office to
be removed to
secretary's of-
fice.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all the books and papers, now in the office and keeping of the auditor, which belong to the state, shall be delivered to the secretary of the state, and deposited, and henceforth kept in his office, under the care and inspection of the said secretary.

Secretary to
settle certain
accounts, and
report the
same, &c. to
the legislature.

2. *And be it enacted*, That the said secretary, by is, authorized to settle the accounts of the said auditor, and of the forfeited estates, that may receive receipts, that are by law required to be deposited in his office, shall be so reported at the first sitting of the

LAWS OF NEW-JERSEY.

287

settlements made with any of the agents of forfeited estates, the number of receipts registered, and an account of his trouble and expense for such service, together with the expense for removing the said books and papers to his office.

1799.

3. Supplied and repealed.

4. *And be it enacted*, That so much of the fifth section of the act, entitled "An act making provision for carrying into effect the act for the punishment of crimes," passed the twenty-fifth day of February, seventeen hundred and ninety-eight, as respects the auditor's countersigning the orders of the inspectors of the state-prison, be, and the same is hereby repealed.

Part of act of 25th of February, 1798, repealed.

AN ACT regulating fences.

PAT. 336.

Passed the 23d of January, 1799.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all fences, consisting of posts and rails, timber, boards, brick or stone walls, shall be esteemed lawful, if four feet and two inches high; and all other fences shall be lawful: if four feet and six inches high, measuring from the level or surface of the earth, and close, strong and sufficient to prevent horses and neat cattle from going through or under the same; and all fences, set in the line of partition between persons, either of which enclose their adjoining lands, shall be so close, strong and sufficient as to prevent sheep from going through or under the same: and all ditches and drains made in or through salt marshes and meadows, for fencing and draining the same, being five feet wide and three feet deep, shall also be esteemed and adjudged lawful fences: and all ditches and drains made in or through other meadows, being one foot wide at the surface of the meadow, four feet and a half wide at bottom, and three feet deep, and being on a hard or stony bottom, shall likewise be esteemed and adjudged lawful fences: and all brooks, rivers, ponds, creeks, and hedges, or other manner or thing equivalent to any such fence as aforesaid, may be adjudged lawful fences, at the discretion of those who may be called to view the same, as by this act is prescribed. And all such beasts, as shall creep through, get over or break down any such fence, may be impounded, and the owner thereof shall be obliged to pay and satisfy all damages and costs by this act.

What fences adjudged to be lawful

2. *And be it enacted*, That

None of any two or three

1799.

the same wholly, and shall be entitled to receive one half of the expenses of the party so neglecting or refusing, as the same shall be appraised and certified in writing, by any two of the township committee, where the lands lie, residing nearest the premises, and being disinterested and indifferent between the parties, together with the legal fees of such committee for their services, as the same shall also be ascertained in writing; and on non-payment, by the party delinquent as aforesaid, of the sum so found, and fees certified to be due, it shall and may be lawful for the other party to recover the same, by action of debt, with costs of suit, in any court, where the same may be cognizable.

If the parties cannot agree on the place for the partition fence, two of the township committee shall fix the same.

3. *And be it enacted*, That to avoid the difficulty that may arise touching the placing of any partition fence, if the parties cannot agree upon the place themselves, it shall and may be lawful for the person, proposing to make the fence, to apply to any two of the township committee as aforesaid, residing nearest the premises, and being disinterested and indifferent between the parties, who, on hearing the allegations and proofs of the parties, shall fix and appoint, (by writing under their hands, to be delivered to each of the parties) the place, where such fence is to be made; and when made in the place so appointed, (if the other party shall have neglected or refused to make his just part or proportion thereof) it shall be sufficient to entitle the party so making the same, to recover such part or proportion of the charges thereof as aforesaid, although it may not happen to be exactly in the division line between the said parties. *Provided always*, That the place so appointed for making the said fence, shall not be construed to exclude or deprive any or either of the parties, of any lawful claim to a greater quantity of land; but such person or persons may maintain his, her or their action for the same, as though such determination of the committee or partition fence had never been made.

But the place, so fixed upon, shall not affect the claim of either party.

Partition fences shall be equally divided, made, and maintained by the parties.

4. *And be it enacted*, That the place, where any partition fence is or shall be made, shall be equally divided, regard being had to the quantity of fence necessary, and other conveniencies of fencing, and each party shall take an equal share of such fence to make or amend and maintain, so that it may be known which part thereof is his own; and if the parties cannot agree in making such division, then any two of the township committee as aforesaid, residing nearest the premises, and being disinterested and indifferent between the parties, shall, on the application of either party, in the presence of the parties, (if they will be present) make such division, and determine the part or share of such fence, which each party is to make or amend and maintain; which determination, being delivered to each of the parties in writing, shall be binding upon such parties and the succeeding owners or occupiers of the same lands.

If lands of different occupants be bounded upon, or divided by, a pond or

5. *And be it enacted*, That when lands, belonging to, or occupied by, different persons, and subject to be fenced, are bounded upon or divided from each other, by any creek, brook, stream, pond or run of water, not navigable for boats or flats, and which of itself is not a sufficient fence, and the owner or possessor of

the land on one side shall refuse to join with the owner or possessor of the land on the other side, in making a partition fence on the one side or the other, or cannot agree respecting the same, then any or either of such owners or possessors, may apply to any two of the township committee as aforesaid, residing nearest the premises, and being disinterested and indifferent between the parties, and if the said committee, on examination, shall be of opinion, that such creek, brook, stream, pond or run of water, does not answer the purpose of a sufficient fence, and that it is impracticable or inconvenient, without unreasonable expense, for such partition fence to be made in the middle, or other part of the water, being the true division line between the parties, they, the said committee, in the presence of the parties, (if they will be present) shall determine, fix and ascertain, how or on which side thereof the fence shall be set up and maintained, or whether partly on the one side, and partly on the other side of such water, and the part or share of the fence, which each person shall in such case make and maintain, as to them shall appear just and reasonable, and reduce their determination to writing, delivering a part thereof to each of the parties; and if either of the said parties shall refuse or neglect to make up and maintain the part of the fence to such party belonging or assigned, according to the determination of the said committee in writing as aforesaid, the same may be done and performed as in the second section of this act is provided; and the party delinquent shall be liable and subject to such recovery against him as in the said section is expressed and mentioned: *Provided always*, That if lands, belonging to different persons, are bounded on the division line between two townships, then and in that case one person shall be taken from the township committee of each of the said townships, to determine the place where such fence shall be set up and maintained, and the part or share thereof, which each person shall in such case make and maintain.

1799.

brook, how the partition fence shall be fixed, made and maintained.

6. *And be it enacted*, That when any partition fence is or shall be made between any two persons, as by this act is directed, if either of them shall think proper to give up his improvement, and leave the same open and common, such person shall not take up or remove the said fence so made between them, without giving twelve months notice in writing to the person or persons in possession of the lands adjoining thereto; and if such person shall remove such fence, without giving such notice, or before the expiration of the said year, then and in every such case, he shall be liable to make good all damages, which the party injured by such removal shall sustain thereby, to be recovered, with costs of suit, in any court having cognizance of the same.

Partition fences not to be removed without giving twelve months notice to the other party.

7. *Provided always, and be it further enacted*, That nothing in this act contained, shall be construed to make void any written agreement between neighbors or others, respecting the making or maintaining partition fences.

But agreements respecting fences not to be affected by this act.

8. *And be it enacted*, That in every case, in which, by this act, two of the township committee shall be called to determine any matter in difference, and it shall so happen, that such two of the

If two of the township committee cannot agree, they

1789.

may call in a third person.

Persons who neglect to make their part of a partition fence, to make good all damages, &c.

Beasts of an innocent person, trespassing through an unlawful fence not to be impounded nor any damages recovered in consequence thereof.

Where persons do not keep up their part of fences, beasts trespassing through the same shall not be impounded nor damages recovered.

And if they injure such beasts they shall pay full damages, with costs.

committee cannot agree in their determination, it shall and may be lawful for them to call upon some third person of the neighborhood, being a freeholder, and disinterested and indifferent between the parties, to join them in the business, any two of whom agreeing, their determination, made and certified in writing in manner aforesaid, shall be binding and conclusive between the parties.

9. *And be it enacted*, That if any person, to whom any part or share of any partition fence is or shall be assigned to make or amend and maintain, as in and by this act is directed, shall neglect or refuse, after due notice given, to make and repair such part or share thereof, so that his own or the beasts of any other person shall break in, enter into, or upon his neighbor's land, over or through the said fence, the person so neglecting or refusing, is hereby rendered liable to make good all damages sustained thereby, to be ascertained according to the directions of this act, and for which such delinquent's beasts shall be liable to be impounded, and held in pound, until he shall pay the same, and all charges occasioned thereby, as herein after mentioned; or, if the beasts of any other person only shall have trespassed, by means of such neglect or refusal to make or repair the said fence, then the party injured may sue for and recover his damages against the party so neglecting or refusing to make or repair the said fence, in an action of trespass, with costs, in any court where the same may be cognizable. And if the beast of the person, who shall have made and maintained his part or share of the partition fence assigned to him, according to the directions of this act, or the beasts of any other person, should trespass on his next adjoining neighbor, through that part of the fence so by him neglected or refused to be made or maintained as aforesaid, he or they shall not be liable to have his or their beasts impounded, nor be liable to any action to recover any damage accruing thereby.

10. *And be it enacted*, That if any owner or possessor of land shall neglect or refuse to make and keep in good repair the fence and fences about his land, as by this act is directed, and for default thereof, the beasts of any other person shall break in, or enter into or upon the said land, over or through such fence, then the owner of the said beasts shall not be liable to any action, nor the beasts be impounded, for any damage sustained thereby; and if any action be commenced therefor, the owner of such beasts may plead the general issue, and give this act in evidence to support the same. *Provided always*, That nothing in this section contained shall be deemed to affect any regulation as to partition fences, or to prevent the recovery of damages for any beasts entering into or upon any person's land, over or through such fence as by this act is directed and allowed.

11. *And be it enacted*, That if any owner or possessor of land, being damaged for want of such lawful and sufficient fence as by this act is directed, shall hurt, wound, lame, kill or destroy, or cause the same to be done, by shooting, hunting with dogs, or otherwise, any of the kind or breed of horses, cattle, or sheep,

he, she or they so offending, shall pay and satisfy to the owner of the beasts so injured or destroyed, full damages, to be recovered in an action of trespass, with costs, in any court where the same may be cognizable.

12. *And be it enacted*, That if any horses, cattle or sheep, shall get over, creep through or break down, any fence by this act declared lawful, the owner or owners of the beasts shall pay to the person injured, all damages occasioned thereby, to be appraised and certified in writing by two substantial and indifferent men of the neighborhood, mutually chosen by the parties; but if the owner or owners of such beasts shall refuse or neglect to choose one of the said appraisers, then the injured party may choose them both himself, and in case the said appraisers, chosen as aforesaid, cannot agree upon an appraisement of the damages, then the said appraisers may choose a third person of the neighborhood, being a freeholder, to join them therein, any two of whom agreeing, their appraisement, made and certified as aforesaid, shall be binding and conclusive to the parties; and if any dispute shall arise concerning the sufficiency of the fence, it shall be determined, on a view thereof, by the same persons, and their decision respecting the same, in like manner reduced to writing, shall also be conclusive. And it shall and may be lawful for the party injured to take and impound such beasts found trespassing or doing damage as aforesaid, in his field or yard, or other enclosure, for the space of twenty-four hours, he giving notice thereof to the owner or owners of the said beasts, if known and easily to be found; and if such beasts are not redeemed within the said twenty-four hours, by payment of, or satisfaction for, the damages so certified as aforesaid, he shall lead or drive them to the public pound of the township, where the pound-keeper shall receive and keep them, until the damages so certified, with the charges of conveying and pounding, are paid. And the said party shall have four cents for horses and cattle, and one cent for sheep, per head, for taking such beasts to the pound, and the pound-keeper shall have the same fees, for letting in and out of the pound; and for pounding, feeding and attending, ten cents for horses and cattle, and three cents for sheep, per head, for every twenty-four hours they shall continue in the pound. And if the owner of any beasts, so impounded, shall not pay the damages and charges of impounding, within four days after such beast shall be impounded, or replevy the same beasts, then it shall be the duty of the pound-keeper to set up advertisements in at least three of the most public places in the township, to which the pound belongs, and in one or more of the most public places in the two next adjoining townships, particularly describing such beasts, and giving at least thirty days notice of an intended day and place of sale, and that if the owner do not appear and redeem the said beasts before the time so notified, they will then be sold at public vendue; at which time and place, if no owner, or other person for him, shall appear and redeem the said beasts, the said pound-keeper shall sell the same accordingly, and out of the moneys arising from such sale shall pay the said damage

1799.

Horses, cattle, or sheep, breaking over lawful fences, their owners shall pay all damages, to be ascertained by appraisers.

Party injured by beasts found trespassing may impound them in his own enclosure for twenty-four hours, and then in the public pound.

Allowance for pounding and feeding.

Beasts impounded may be advertised and sold.

1799.

Damages and charges to be first satisfied, and the rest due paid to the owner, or township.

and charges of conveying to the pound, and retain in his hands his fees for pounding, keeping and feeding the said beasts, and forty cents for such sale and collecting the money, and return the overplus to the owner of the same beasts; and if no owner shall appear and claim such overplus, within twelve calendar months after such sale, the same shall be paid to the clerk of the township, where such beasts were impounded, for the use of the said township.

Where there is no public pound, the person injured may pound beasts in his yard or field.

13. *And be it enacted*, That where there is not a public pound kept within the township, then the person, damaged by such beasts trespassing as aforesaid, may pound them in his or her own field, yard or other enclosure, till redeemed as aforesaid; and he shall act in such cases in all respects, and be entitled to the same fees, as the pound-keeper should or ought to have done, or been entitled to by this act; and further, shall enter all such trespassing creatures kept in his possession, at any time after the first day of November, and before the first day of April, in the town-book, agreeably to the act, entitled "An act concerning stray cattle, horses and sheep."

Penalty on any of the township committee, who shall neglect or refuse to perform the duties required by this act.

14. *And be it enacted*, That if any person, being of any township committee, who, on due notice given him, and being requested by any person interested to do any of the duties in and by this act assigned to him, shall refuse or neglect forthwith to attend accordingly, every person, so neglecting or refusing, shall forfeit and pay the sum of four dollars, with costs, to him or them, who shall sue for the same, within thirty days after such neglect or refusal.

Their compensation, and by whom to be paid.

15. *And be it enacted*, That each and every person of such township committee shall be allowed one dollar per day, and fifty cents for a half day, for the time he shall be engaged in the duties of his office in virtue of this act, to be paid by the person or persons employing him; and in case such person or persons shall refuse or neglect to pay the said committee their legal fees, within thirty days after the service done, they may severally recover double the amount of such fees, by action of debt, with costs of suit. And each one of the committee may be a witness for or against his companion in any such suit.

Former laws repealed.

16. *And be it enacted*, That the act, entitled "An act for regulating fences," passed the eighth day of July, in the year seventeen hundred and thirty, and the several supplements thereto, and all and every other act and acts, part and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

PAT. 339.

AN ACT relative to posthumous children.

Passed the 24th of January, 1799.

Posthumous children to inherit, when the father dies intestate.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if the father die intestate, his posthumous child or children

shall take, possess, and inherit his estate, real and personal, in the same proportion and manner as if such child or children were born in the life-time of the father.

1799.

2. *And be it enacted*, That if the father die testate, his posthumous child or children, in case no provision be made for him, her or them, by such last will and testament, shall, unless expressly excluded or barred thereby, take, possess and inherit the estate, real and personal, of his, her, or their father, in the same proportion and manner as if the said father had died intestate; and the share or shares of such child or children shall be taken from the devisees and legatees, to whom the said estate is given and devised, ratably and in proportion to their respective interests therein.

If the father die testate, his posthumous children to take and inherit, unless expressly excluded by his will.

AN ACT to assist poor persons in the prosecution of their suits.

PAT. 339.

Passed the 28th of January, 1799.

WHEREAS justice ought to be administered to such poor persons as are not of ability to sue according to law for the redress of injuries and wrongs, or the recovery of their demands and rights: **THEREFORE—**

Preamble.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every such poor person, as shall have cause of action against any person in this state, shall have, at the discretion of the court before which he or she would sue, a writ or other process, according to the nature of his or her case, without paying for the same.

Poor persons to have process gratis.

2. *And be it enacted*, That the said court shall, at their discretion, assign to such poor person, counsel, learned in the law, attorneys and other officers, requisite to prosecute the said action, who shall perform their respective duties therein without fee or reward.

Courts to assign them counsel and other officers.

3. *And be it enacted*, That such poor person, being plaintiff or complainant in any such action, shall not be compelled to pay costs.

Poor person, being plaintiff, not to pay costs.

AN ACT to ascertain the times and place of holding the court of appeals.

PAT. 340.

Passed the 29th of January, 1799.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the court of appeals in the last resort in all causes of law shall hold, annually, at Trenton, two terms; the one commencing the third Tuesday of May, and the other the first Tuesday of November; but if the legislature be elsewhere in session, at either of the said terms, the said court shall, in such case, be held at the place where the legislature shall be so in session.

The court of appeals, to hold, annually, two terms at Trenton.

1799.

Governor and council may appoint a special court.

Of which two months notice shall be given.

Secretary of the state to be clerk of the court.

Compensation to the judges and clerk of the court.

Mode of payment.

Certain acts repealed.

2. *And be it enacted*, That the governor for the time being, as often as the business of the said court shall require, shall be, and is hereby authorized, by and with the advice of the council, or any three of them, to appoint one other time in every year, of holding the said court, at Trenton: *Provided*, That previous notice, for at least two months, shall be given in one or more of the newspapers published in this state, of the time and place of holding such court.

3. *And be it enacted*, That the secretary of the state, for the time being, shall be clerk of the said court of appeals.

4. *And be it enacted*, That compensation of the members of the council, who shall sit as judges in the said court, shall be the same by the day, for every day they shall respectively attend the court, and for travelling to and from the same, as the members of the legislative council are or may be entitled to by law; and that the clerk of the said court shall be allowed the same daily compensation as the clerk of the legislative council: *Provided always*, That they shall not be entitled to any compensation as members and clerk of the legislative council, when sitting as a court of appeals.

5. *And be it enacted*, That the compensation aforesaid, and the services of the sergeant at arms, and all necessary expenses, shall be paid by the treasurer of the state upon a certificate signed by the governor.

6. *And be it enacted*, That the act, entitled "An act to regulate and fix the terms for holding the court of appeals or errors," passed the twenty-second day of December, in the year of our Lord, one thousand seven hundred and eighty-four, and the supplement thereto, passed the fifth day of November, in the year of our Lord, one thousand seven hundred and ninety-one, be, and they are hereby repealed.

PAT. 340.

AN ACT for the further division of the township of Roxbury, and altering the line of the township of Washington, in the county of Morris.

Passed the 29th of January, 1799.

Preamble.

WHEREAS a number of the inhabitants of the township of Roxbury, in the county of Morris, by their petition have set forth, that notwithstanding the said township was lately divided, yet it remains too large for the town business to be done with convenience, and praying that the said township may be further divided; and the prayer of the petitioners appearing reasonable; THEREFORE—

Bounds of the new township.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Roxbury, in the county of Morris, lying within the following boundaries, to wit: beginning at a bridge that crosses Black River, near William Coleman's

house, from thence to run northeasterly on the westerly side of said river, to the corner of William Coleman's land, from thence along the line of said Coleman and John Hathaway, to the top of the first hill, and from thence to run southwesterly to the end of a certain long line, that divides the hill farms of the long valley, from thence to run southwesterly along said line to the end of said long line, from thence to continue on the same course until it strikes the line of Washington, from thence to run southwardly on the line that divides Roxbury and Washington, until it strikes the house of Robert Carlile, junior, thence a straight course to the west corner of the house of Sammons Oliver, thence a straight course to the forge of Skinner and Emmons, thence along the line of Roxbury and Washington to the line of Somerset county, thence to run along said Somerset line until it strikes the line of Mendham, from thence to run along the old boundary between Roxbury and Mendham to the place of beginning, shall be, and the same is hereby set off from the township of Roxbury, and the same is hereby established a separate township, to be called by the name of, "The Township of Chester."

1799.

Its name.

2. Supplied by act, 22d May, 1820.

3. Executed.

AN ACT concerning promissory notes, inland bills of exchange, and notaries public. PAT. 341.

Passed the 30th of January, 1799.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That every bill of exchange, of the sum of eight dollars or upwards, drawn or to be drawn, in, or dated, or to be dated at and from, any city, town, or other place in the state of New-Jersey, upon any person or persons of or in any city, town, or other place in the said state, and payable at a certain number of days, weeks, or months after date or sight thereof, shall, in case of non-acceptance by the drawee, when presented for acceptance, or, if accepted, in case of non-payment by the drawee, when due and presented for payment, be protested by a notary public in like manner as foreign bills of exchange, and shall in every respect, except where this act otherwise directs, be regulated and governed by the same law, custom and usage, as regulate and govern foreign bills of exchange: *Provided*, That such protest shall, for want or in default of a notary public, be made by any justice of the peace, whose act, in such case, shall be of equal efficacy and virtue with that of a notary public.

Inland bills of exchange, of eight dollars or upwards, put on the same footing as foreign bills.

2. And be it enacted, That in case any such inland bill of exchange shall happen to be lost or miscarried, within the time before limited for payment of the same, then the drawer of the said bill is and shall be obliged to give another bill of the same tenor with that first given, the person or persons, to whom the same is and shall be so delivered, giving sufficient security, if de-

Where bill is lost, drawer to give another on security.

1798.

Acceptance of an inland bill for a precedent debt shall be esteemed payment, if due diligence be not exercised.

Promissory notes may be endorsed, and action maintained thereon as on inland bills of exchange.

manded, to the said drawer, to indemnify him against all persons whatsoever, in case the said bill of exchange, so alleged to be lost or miscarried, shall be found again.

3. *And be it enacted*, That if any person accept any such inland bill of exchange, for and in satisfaction of any former debt, or sum of money formerly due to him or her, the same shall be accounted and esteemed a full and complete payment of such debt, if such person, accepting of any such bill for his or her debt, doth not take his or her due course to obtain payment thereof, by endeavoring to get the same accepted and paid, and make his protest as aforesaid, in case of non-acceptance and non-payment thereof.

4. *And be it enacted*, That all notes in writing, already made, or hereafter to be made, and signed by any person or persons, body politic or corporate, or by the servant, factor, or agent of any corporation, banker, merchant or trader, who is usually entrusted by him, her, or them to sign such promissory notes for him, her, or them, whereby such person or persons, body politic or corporate, his, her, or their servant, factor, or agent, as aforesaid, doth or shall promise to pay to any other person or persons, body politic or corporate, his, her, or their order, or unto bearer, any sum of money mentioned in such note, shall, by virtue thereof, be taken and construed to be due and payable to any such person or persons, body politic or corporate, to whom the same is or shall be made payable; and also every such note, payable to any person or persons, body politic or corporate, his, her, or their order, shall be assignable or endorsable over to any other person or persons, body politic or corporate, in the same manner as inland bills of exchange are or may be; and that the person or persons, body politic or corporate, to whom such sum of money is or shall be, by such note, made payable, shall and may maintain an action for the same, in such manner as he, she or they might do upon any inland bill of exchange against the person or persons, body politic or corporate, who, or whose servant, factor, or agent as aforesaid, signed the same; and that any person or persons, body politic or corporate, to whom such note, that is payable to any person or persons, body politic or corporate, his, her, or their order, is or shall be endorsed or assigned, or the money therein mentioned, ordered to be paid by endorsement thereon, shall and may maintain his, her, or their action for such sum of money, either against the person or persons, body politic or corporate, who, or whose servant, factor, or agent as aforesaid, signed such note, or against any of the persons, who endorsed the same; and in every such action, the plaintiff or plaintiffs shall recover his, her, or their damages, and costs of suit; and if such plaintiff or plaintiffs shall be nonsuited, or a verdict be given against him, her, or them, the defendant or defendants shall recover his, her, or their costs against the plaintiff or plaintiffs; and every such plaintiff or plaintiffs, or defendant or defendants, respectively recovering, may sue out execution for such damages and costs by *capias ad satisfaciendum*, or *fieri facias*, as is usual in other cases: *Provided always*, That the said plaintiff

or plaintiffs shall allow all just set-offs or discounts on any note to be made and signed as aforesaid, after the first day of June next, not only against himself, but against the assignor or assignors of such note, before notice of such assignment shall have been given to the defendant or defendants; unless it shall be expressed in the said note, that the said sum therein mentioned shall be paid, without defalcation or discount.

1799.

In what cases discounts shall or shall not be allowed on promissory notes.

5. *And be it enacted*, That the governor of this state, for the time being, may appoint and commission such and so many notaries public as to him shall seem necessary, who shall hold their respective offices during good behaviour.

Governor may appoint notaries public.

6. *And be it enacted*, That it shall and may be lawful for every notary public and justice of the peace to demand and take the following fees, to wit: for every attestation, protestation, and other instrument of publication, under his seal of office, relative to a foreign bill of exchange, one dollar, and for recording the same in a book kept for that purpose, seventy-five cents; for every attestation, protestation, and other instrument of publication, under his seal of office, relative to inland bills of exchange or promissory notes, if said notes or bills exceed one hundred dollars, the sum of fifty cents, and if one hundred dollars or less than one hundred dollars, the sum of thirty cents, and for recording the same in a book kept for that purpose, the sum of twenty-five cents.

Their fees.

AN ACT relative to dower.

PAT. 343.

Passed the 31st of January, 1799.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the widow, whether alien or not, of any person dying intestate, or otherwise, shall be endowed, for the term of her natural life, of the one full and equal third part of all the lands, tenements and other real estate, whereof her husband, or any other to his use, was seized of an estate of inheritance, at any time during the coverture, to which she shall not have relinquished or released her right of dower, by deed executed and acknowledged in the manner prescribed by law for that purpose.

A widow to have the one-third part of her husband's lands for her dower.

2. *And be it enacted*, That until such dower be assigned to her, it shall be lawful for the widow to remain in, and to hold and enjoy the mansion-house of her husband and the messuage or plantation thereto belonging, without being liable to pay any rent for the same.

Widow to remain in the mansion-house, until dower be assigned.

3. *And be it enacted*, That if the widow be deforced of her dower, or cannot have it without suit, or if her dower be unfairly assigned, or not assigned within forty days after the death of her husband, then she may sue for and recover the same, with damages; that is to say, the value of the whole dower to her belonging, from the time of her husband's death, if he died or shall die seized, or from the time of demanding dower, if the husband

Widow deforced of dower, may recover the same with damages.

1799.

was or shall be seized, but did not or shall not die so seized, unto the day that she shall recover seizin of her dower by judgment of the court.

A writ of dower, unde nihil habet, not to abate for receiving dower of any other than the tenant.

Judgment against the husband, by default or covin, shall not bar the widow of her dower.

4. *And be it enacted*, That the writ of dower, called, unde nihil habet, shall not abate by the exception of the tenant, that the demandant hath received her dower of another person, before her writ was sued out; unless he can shew, that the dower, so received, was in satisfaction of her right of dower in the lands or tenements whereof she demands dower.

5. *And be it enacted*, That if the husband, being impleaded for land, give up the same unto his adversary by covin, his widow shall recover her dower of the said land; and if the husband lose the land in demand, by default, the widow, demanding her dower thereof, shall be heard, and if it be alleged against her, that her husband lost the land, whereof dower is demanded, by judgment, whereby she ought not to have dower, and then it be inquired, by what judgment, and it be found, that it was by default, whereunto the tenant must answer; then the tenant must answer further, and shew, that he had and hath right in the said land, according to the form of the writ, that the tenant before sued out against the husband; and if he shew, that the husband of such wife had no right in the lands, nor any other but he that holdeth them, the tenant shall go quit, and the widow shall not recover her dower therein; but if he shew not the same, the widow shall recover her dower.

An Infant heir shall recover against a widow who has been endowed by favor, default, or collusion of the guardian, unless she can shew right to her dower.

Judgment by default, &c., against a widow impleaded for her dower, shall not bar her right.

6. *And be it enacted*, That where a widow, having no right to demand dower, sues out a writ of dower against the guardian of the heir, such heir being within age, and the guardian endows the widow by favor, or makes default, or by collusion defends the plea faintly, whereby she is awarded her dower in prejudice of the heir, in every such case, the heir when he comes to full age, shall have the like action to demand the seizin of his ancestor against such widow, as he should have against any other deforcer. But the widow shall, in such action, be allowed to shew that she had right to her dower, and if she shew such right, she shall go quit and retain her dower, and if she shew it not, the heir shall recover his demand. *And be it further enacted*, That in like manner the widow shall be aided, if the heir or other person implead her for her dower, or if she lose her dower by default; in which case, the default shall not be so prejudicial to her, but that she shall recover her dower, if she have right thereto, and she shall have a writ in this form:

Form of writ.

Command A, that justly and without delay, he render to B, who was the wife of C, so much land, (specifying the land) with the appurtenances, in D, which she claims to be her reasonable dower, or, of her reasonable dower, of which the aforesaid A, deforceth her, &c.

And to this writ the tenant shall have his exception, to shew that she had no right to be endowed; and if he can verify his exception, he shall go quit, and if not, the widow shall recover the land, whereof she was before endowed.

7. *And be it enacted*, That a writ of admeasurement of dower shall be granted to a guardian, and the heir, when he comes of full age, shall not be bound by the suit of such guardian, if it be by collusion; but he may admeasure the dower after, as it ought to be admeasured by law.

1799.

Guardian to have writ of admeasurement of dower; but in case of collusion, the heir not bound.

8. *And be it enacted*, That in the writ of admeasurement of dower, as well as in the writ of admeasurement of pasture, if the defendant come at the day contained in the writ, to answer the plaintiff, the plea shall pass between them, and if he come not, admeasurement shall be made upon his default.

Mode of proceeding in writs of admeasurement of dower and of pasture.

9. *And be it enacted*, That no sheriff shall hold a plea of admeasurement of dower or of pasture: *And further*, That every writ of dower, and of admeasurement of dower or pasture, shall issue out of, and be returnable to, the supreme court of this state, and no other; which court is hereby declared to have cognizance of the same.

Supreme court to have cognizance of dower.

10. *And be it enacted*, That where any man hath purchased, or hath an estate made and conveyed of and in any lands, tenements or hereditaments, unto him and his wife, and to the heirs of the husband or wife, or to the husband and to his wife, and to the heirs of their two bodies begotten, or to the heirs of one of their bodies begotten, or to the husband and to his wife for the term of their lives, or for the term of the life of the said wife, or where any such estate or purchase of any lands, tenements or hereditaments hath been, or hereafter shall be made, to any husband and to his wife, in manner and form above expressed, or to any other person or persons, and to their heirs and assigns, to the use and behoof of the said husband and wife, or to the use of the wife, as is before mentioned, for the jointure of the wife; that then, and in every such case, every married woman, having such jointure made, or hereafter to be made, shall not claim or have any dower of the residue of the lands, tenements or hereditaments, which at any time were her said husband's, by whom she hath or shall have any such jointure, nor shall demand or claim her dower of or against them or any of them, who have or shall have the lands, tenements or hereditaments of her said husband.

Married women, having a jointure, shall not have dower.

11. *Provided always, and be it further enacted*, That if a widow be lawfully expulsed or evicted from her said jointure, or from any part thereof, without fraud or covin, by lawful entry or action, or by discontinuance of her husband, she shall be endowed of as much of the residue of her husband's lands, tenements or hereditaments, whereof she was before dowable, as the same lands, tenements or hereditaments, from which she shall be so evicted or expulsed, shall amount or extend unto.

Widow evicted of her jointure, without fraud, shall be endowed.

12. *And be it enacted*, That if any deed, conveyance or assurance of lands, tenements or hereditaments, for jointure as aforesaid, be made before the marriage and during the infancy of the feme, or be made after marriage, in either case, the widow may, at her election, forego and waive such jointure, and demand and have her dower.

In what cases a widow may elect to have her jointure or dower.

1799.

Widows not to have both their dower and the lands intended to be in lieu thereof.

A wife who elopes shall be barred of her jointure or dower.

A wife consenting to her ravisher, not to have jointure or dower.

13. *And be it enacted*, That when any deed, conveyance or assurance of lands, tenements or hereditaments by way of jointure as aforesaid, and in lieu of dower, shall, through any defect, fail to be a legal bar to dower, and the widow, availing herself of such defect, shall demand her dower, then the estate and interest, so conveyed or assured to such widow, shall thereupon cease and determine.

14. *And be it enacted*, That if a wife voluntarily leave her husband, and go away and continue with her adulterer, she shall be disabled and for ever barred from having her jointure or dower, unless her husband be voluntarily reconciled to her and suffer her to dwell with him; in which case she shall be restored to her jointure or dower.

15. *And be it enacted*, That if a wife, after being ravished, consent to the ravisher, she shall be disabled and for ever barred from having her jointure or dower, unless her husband be voluntarily reconciled to her, and suffer her to dwell with him, and then she shall be restored to her jointure or dower.

See supplement passed 24th February, 1820.

PAT. 846.

AN ACT respecting writs of error.

Passed the 1st of February, 1799.

Errors in the supreme court to be rectified by the court of appeals.

Procedure on writs of error to the supreme court.

The plaintiff in error to make a transcript of the record, and one of the judges to return the same.

Of the adjournment of the court of appeals, when a quorum of members do not attend.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That errors happening in the supreme court of this state shall be heard, rectified and determined by the court of appeals in the last resort in all causes of law.

2. *And be it enacted*, That it shall and may be lawful for the attorney-general, in behalf of this state, or for any party, his legal representative, or other person, who may be damnified or aggrieved by any judgment rendered, or to be rendered, in the supreme court, to sue forth a writ of error, to be directed to the judges of the said supreme court for the time being, commanding them to cause the record of such judgment, and all things concerning the same, to be brought before the said court of appeals.

3. *And be it enacted*, That the party prosecuting such writ of error, shall, without delay, cause a transcript of the said record to be made, and the said judges, to whom the said writ of error may be directed, or any one of them, shall annex the said transcript to, and endorse a proper return on, the said writ, and return the same under his or their signature and seal.

4. *And be it enacted*, That if a sufficient number of the members of the court of appeals, to constitute the said court, shall not attend on the first day of the term or time appointed for holding the same, it shall be lawful for the members attending, to adjourn the court from day to day, until a sufficient number shall attend, or to adjourn till the next term, in which case the writs and pro-

cess then returnable, and all suits, pleadings and proceedings depending before the said court, shall be continued of course till such subsequent term.

1799.

5. *And be it enacted*, That all errors, happening in any of the inferior courts of common pleas, shall be heard, rectified and determined by the supreme court of this state, which is hereby declared to have jurisdiction of the same, and out of which a writ for that purpose shall be issued, at the instance of the state, or of any party, his legal representative or other person, who may be damnified or aggrieved by any judgment rendered, or to be rendered, in any of the said inferior courts of common pleas.

Errors in the common pleas to be rectified by the supreme court.

6. *And be it enacted*, That no execution shall be stayed or delayed by any writ of error, or supersedeas thereon, for the reversal of judgment in any action of debt, founded upon a prior judgment, or upon any single or penal bill for the payment of money only, or upon any obligation, with condition for the payment of money only, or upon any action of debt for rent, or upon any contract, sued in the supreme court, or any of the inferior courts of common pleas or other court of record in this state, unless the plaintiff in such writ of error, or other responsible person in his behalf, with two sufficient sureties, to be approved and allowed by the court wherein such judgment is given, shall first become bound to the party, for whom such judgment is given, by recognizance, to be acknowledged in the same court,* in double the sum adjudged to be recovered by the said judgment, to prosecute the said writ of error with effect, and also to pay and satisfy if the said judgment be affirmed, all the debt or debts, damages and costs, adjudged on the former judgment, and all costs and damages to be awarded for the delay of execution.

Execution not to be stayed by writ of error on judgment for debt on judgment, or on bill or bond for payment of money, or for rent, or on contract, unless the plaintiff in error enter into recognizance to prosecute, and pay the debt, damages, and costs, if judgment be affirmed.

7. *And be it enacted*, That no execution shall be stayed or delayed, in any of the courts mentioned in the section next preceding, by any writ of error, or supersedeas thereon, after verdict and judgment on such verdict, in any personal action whatsoever, unless recognizance, in the manner above directed, shall be first acknowledged in the court,* where such verdict is entered and judgment thereon is given.

Execution not to be stayed by writ of error after verdict and judgment in any personal action, unless upon recognizance as aforesaid.

8. *And be it enacted*, That no execution shall be stayed or delayed by writ of error to be brought upon judgment after verdict in dower, or in ejectment, unless the plaintiff in such writ of error, or other responsible person in his behalf, with two sufficient sureties as aforesaid, shall first become bound, by recognizance, to the plaintiff in the writ of dower or action of ejectment, in such reasonable sum as the court, to which the writ of error is directed, shall think fit; with condition, that if judgment be affirmed in the said writ of error, or if the said writ of error be discontinued by default of the plaintiff therein, or if the said plaintiff be nonsuit in the said writ of error, that then the said plaintiff shall pay such costs, damages, and sum or sums of money, as shall be awarded upon or after such judgment affirmed, discontinuance, or nonsuit. And to the end, that the same damages,

Nor in dower or ejectment, after verdict.

1799.

In which case the court shall award a writ of inquiry to ascertain the damages, &c.

To what actions the three preceding sections shall not extend.

No writ of error before final judgment.

and sum or sums of money may be ascertained, the court, where-in execution ought to be granted, shall, upon such affirmation, discontinuance, or nonsuit, issue a writ to inquire as well of the mesne profits, as of the damages by any waste committed after the first judgment in dower or in ejectment; and upon return thereof, judgment shall be given and execution awarded for such mesne profits and damages, and also for the costs of suit.

9. *Provided always, and be it further enacted*, That the sixth, seventh and eighth sections of this act shall not extend to any writ of error to be brought by any executor or administrator, nor to any action popular, or action on any penal statute, nor to any indictment, presentment, inquisition or information.

10. *And be it enacted*, That a writ of error shall not be granted or issued in any case, until final judgment be rendered.

11. Repealed, and supplied by act, Feb. 23, 1820.

PAT. 346.

AN ACT relative to guardians.

Passed the 1st of February, 1799.

Testamentary guardian to give bond for the faithful execution of his office, unless it be otherwise directed by the will.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every guardian, appointed by last will and testament, which shall be legally proved and recorded, shall, before he exercises any authority over the minor or his estate, appear before the orphans' court, and declare his acceptance of the guardianship, which shall be recorded, and shall give bond, with such sureties and in such sum as the said court may approve of and order, for the faithful execution of his office, unless it is otherwise directed by the testator's will.

Court appointing guardian, to take bond with surety.

2. *And be it enacted*, That every court, or other competent authority, appointing a guardian, shall take bond of him, with good sureties and in sufficient sum, for the faithful execution of his office.

Guardian to deliver an inventory to the orphans' court, and to exhibit to the said court, once a year, his accounts, which shall be examined, and, if approved, recorded.

3. *And be it enacted*, That every testamentary guardian, guardian in socage, or other guardian, shall, within three months after his acceptance of, or appointment to, his office, deliver to the clerk of the orphans' court, an inventory upon oath, of all the estate, real and personal, which he shall have received or taken possession of, to be entered of record in a separate book, to be kept by the said clerk, and shall exhibit once in every year, or oftener, if he be required, accounts of the produce of the said estate, of the sale and disposition of such produce, and of the disbursements; which accounts shall be examined by the court, or by such person or persons as they shall appoint, and being found and certified, or reported to be properly and fairly stated, and the articles thereof, to be supported and justified by the vouchers, and the report, in case of a reference, being approved and confirmed by the said court, shall, with such certificate or confirmation, be entered of record in the book aforesaid; and if any arti-

LAWS OF NEW-JERSEY.

cle of such accounts be at any time afterwards excepted to by the ward, or his representative, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts, that such article would be excepted to, and a memorandum of that notice shall have been entered on record, or desired to be entered.

4. *And be it enacted*, That any guardian, who shall deliver in such inventory, or render such account as aforesaid, shall, by order of the orphans' court, to which he is amenable, be summoned, and if he remain in default, be compelled to perform his duty, or be displaced.

Guardian not delivering an inventory, or accounting, may be displaced.

5. *And be it enacted*, That the orphans' court, when they shall at any time know or have cause to suspect, that the sureties of a guardian, or any of them are or is failing, or in dubious circumstances, may require and compel such guardian to give additional sureties or surety, and if he refuse or neglect to do so, may displace him.

Orphans' court may require guardian to give further security.

6. *And be it enacted*, That if the personal estate, and rents and profits of the real estate, be not sufficient for the maintenance and education of the ward, the orphans' court of the proper county, on full investigation thereof, may, from time to time, order the guardian to sell such parts of the ward's lands, tenements, hereditaments and real estate, as they shall direct, and judge adequate for his or her maintenance and education.

In what case the orphans' court may order the guardian to sell the lands of his ward.

7. *And be it enacted*, That the lands, tenements, hereditaments and real estate of the ward, so ordered to be sold, shall be advertised* by the guardian in five of the most public places of the county, for the space of two months previous to the time appointed for the sale thereof; and the guardian, at the time and place so advertised, shall sell the same by public vendue to the highest bidder, and shall make report in writing of his proceedings thereon to the next orphans' court after such sale: *Provided always*, That the said guardian may adjourn the said sale, from time to time, at his discretion.

Guardian to advertise the lands for two months before the time of sale.

8. *And be it enacted*, That the guardian shall make a deed to the purchaser for the lands, tenements, hereditaments and real estate so sold; which deed shall set forth the said order at large, and shall vest in the said purchaser as good and perfect an estate in the premises therein mentioned, as the ward was seized of, or entitled to, at the time of making the said order.

Guardian to make deed for the lands so sold.

AN ACT to facilitate pleadings.

Passed the 1st of February, 1799.

PAT. 347.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall be lawful for the plaintiff in replevin, and for the defendant or tenant in every other action, to plead, in any court

Defendants authorized to plead several pleas.

* See sec. 4, act 21st February, 1820.

1799.

of record, with leave of such court, as many several matters as he shall think necessary for his defence; but if on demurrer, any such matter be adjudged to be insufficient, or if a verdict be found on any issue in such action for the plaintiff, costs shall thereupon be awarded by the court.

Defendant may plead the general issue, and give the special matter in evidence.

2. *And be it enacted*, That it shall be lawful for the defendant in any action, except in cases of mutual dealings, to plead the general issue, and to give any special matter in evidence, which, if pleaded, would be a bar to such action, giving notice, with the same plea, of the matter or matters so intended to be given in evidence.

This act not to extend to a justice's court.

3. *And be it enacted*, That this act shall not extend to the courts constituted for the trial of small causes.

PAT. 348.

AN ACT respecting bail in civil actions.

Passed the 2d of February, 1799.

Where bail is required, affidavit to be made of the cause of action.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That where bail shall be required in any civil action, an affidavit shall be made and filed of the cause of such action, which affidavit may be made before any judge, or commissioner, authorized to take special bail, or any justice of the peace of this state, or, if the plaintiff be out of this state, before any judge of any court of judicature, or notary public of the state, kingdom or nation, in which he resides or happens to be; and the sum specified in such affidavit shall be endorsed on the writ or process, for which sum, so endorsed, the sheriff or other officer, to whom such writ or process shall be directed, shall take bail, and for no more; and if the party, making such affidavit, swear to the best of his knowledge or belief, the same shall be deemed to be sufficient.

The sum, so sworn to, shall be endorsed on the writ, for which the sheriff is to take bail.

2. *And be it enacted*, That no person shall be permitted to be special bail in any such action, unless he be a freeholder, and resident in this state, and of sufficient property, if the writ or process issue out of the supreme court; or, if it issue out of any of the inferior courts of common pleas, unless he be a freeholder of sufficient property, and resident in the county, where such court is held.

Who may be special bail.

3. *And be it enacted*, That no attorney at law, under-sheriff, sheriff's deputy, bailiff, or other person concerned in the execution of process, shall be permitted to be special bail in any action.

Who shall not be bail.

4. *Provided always, and be it enacted*, That nothing in this act shall prevent any of the said courts, or any judge thereof, from ordering, as heretofore, the defendant in any action to be held to special bail, in such sum as the said court or judge, under all the circumstances of the case, shall think proper to direct; which sum shall be endorsed on the process, and the sheriff or officer shall take bail for the same, and no more.

But any court or judge may order bail as heretofore.

AN ACT relative to suits instituted by common informers.

1799.

Passed the 2d of February, 1799.

PAT. 348.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That upon every action or information, which shall be instituted or exhibited by any informer on a penal statute, a special note shall be made of the very day, month, and year, of its institution or exhibition, and that such action or information shall be of record from that time, and not before; *And further,* That no manner of antedating thereof shall be made or allowed.

The time of bringing actions by informers, to be noted.

2. *And be it enacted,* That upon every process which may be sued out on such action or information to compel the appearance of the defendant, shall be endorsed the name of the party who prosecutes, and the title of the statute, upon which the said action or information is founded. And any clerk, issuing process contrary to this provision, shall forfeit to the party against whom such process is awarded, ten dollars for every offence, to be recovered by action of debt, with costs, in any court having cognizance of that sum.

Name of prosecutor, and title of statute, to be endorsed on process.

3. *And be it enacted,* That if any action or information shall be brought or exhibited for an offence against any penal law made or to be made, it shall be lawful for the defendant, in such action or information, to plead the general issue, that he is not guilty, or that he oweth nothing, and to give in evidence any special matter, which, if pleaded would be a bar to the said action or information, giving notice, with the same plea, of the matter so intended to be given in evidence.

Defendant may plead the general issue and give the special matter in evidence.

4. *And be it enacted,* That no recovery, by verdict or otherwise, obtained by covin or collusion, in an action popular, shall be a bar to any other action prosecuted with good faith.

Recovery by covin no bar to an action prosecuted with good faith.

5. *And be it enacted,* That if any prosecutor of an action or information, for the recovery of any penalty not wholly appropriated to the use of such prosecutor, shall compound with the defendant, or direct such action or information to be discontinued, unless it be by leave of the court, in which the said action or information shall be depending, then such prosecutor shall be liable for so much of the penalty to the state of New-Jersey, or any other, as the said state or other would have been entitled to, if the defendant had been convicted.

In what cases a prosecutor, compounding without leave of the court, shall be liable for a proportion of the penalty.

6. *And be it enacted,* That every informer or prosecutor on a penal statute shall pay costs to the defendant, if he discontinue or be nonsuit, or if a verdict or judgment pass against him; for which costs the said defendant shall have execution against the goods, chattels, and person of such informer or prosecutor.

Where prosecutor shall pay costs.

7. *And be it enacted,* That this act shall not extend to any certain person, body politic or corporate, to whom or to whose use any forfeiture, penalty, or suit is or shall be specially limited or granted by any statute; but that every such certain person, body politic or corporate may, in such case, sue, prosecute, or inform, as he or they might have done, if this act had not been made.

This act shall not extend to persons to whom any penalty is specially given.

1799.

PAT. 349.

AN ACT relative to indictments.

Passed the 2nd of February, 1799.

When indict-
ments shall be
tried.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That every indictment shall be tried the term or session, in which issue is joined, or the term after, unless the court, for just cause, shall allow further time for the trial thereof, and if such indictment be not so tried as aforesaid, the defendant shall be discharged.

Where defend-
ant shall not
pay costs.

2. *And be it enacted,* That if an indictment be quashed, or a verdict pass, or judgment be given for the defendant in the said indictment, then no costs shall be awarded against such defendant.

If a recognizor
be discharged
for want of
prosecution,
he shall not
pay costs.

3. *And be it enacted,* That if any recognizor, who is or shall be bound to answer any charge of a criminal nature, be discharged from his recognizance for want of prosecution, he shall not be liable to pay costs for such discharge.

On a joint in-
dictment a-
gainst several,
the costs shall
be the same as
against one.

4. *And be it enacted,* That if several persons are or shall be jointly indicted for one and the same offence, and shall be there- of convicted, the costs, except caption fees, shall amount to no more than on an indictment against one person only.

Former act re-
pealed.

5. *And be it enacted,* That the act, entitled "An act for preventing malicious prosecutions on indictments and other suits of the crown, and rectifying sundry abuses in the proceedings thereon," passed the tenth day of February, in the year of our Lord, one thousand seven hundred and twenty-seven-eight, and every other act or part of any act, within the purview of this act, be, and they are hereby repealed.

PAT. 350.

AN ACT to regulate, in certain cases, the issuing of writs of certiorari to the courts of general quarter-sessions and justices of the peace.

Passed the 6th of February, 1799.

Writs of cer-
tiorari for the
removal of in-
dictments
from the courts
of general
quarter-ses-
sions, before
trial, how to
be granted by
the supreme
court in term
time.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the supreme court of this state, at the instance of the party indicted or presented, may on motion, and by rule, award a writ of certiorari to remove into the said court any indictment or presentment, before trial, from any of the courts of general quarter-sessions of the peace, upon the following and no other terms; that is to say, that the party indicted or presented, and prosecuting such certiorari, shall, before the allowance thereof, with two sufficient sureties, enter into recognizance to the state of New-Jersey, in such sum as the said supreme court shall direct, with condition, that the party, so indicted or presented, and prosecuting the certiorari, shall, at its return, appear and plead to the said indictment or presentment in the said supreme court, and at

his, her, or their own costs and charges, cause and procure the issue, that shall be joined upon the said indictment or presentment, or any plea relating thereto, to be tried at the next circuit court to be held for the county wherein the said indictment or presentment was found, after such certiorari shall be returnable, if the said supreme court shall not appoint any other time for the trial thereof, and if any other time be so appointed, then at such other time, and shall not depart the said supreme court until discharged by the same, and shall pay costs, if convicted of the offence charged in the said indictment or presentment.

1799.

2. *And be it enacted*, That a writ of certiorari for the removal of an indictment or presentment, before trial, from any of the said courts of general quarter-sessions of the peace into the said supreme court, may, in vacation, and at the instance of the party so indicted or presented, be granted, by any of the justices of the said supreme court, upon the following and no other terms, that is to say; that the party, indicted or presented, and prosecuting such certiorari, shall, before the allowance thereof, with two sufficient sureties, enter into recognizance to the state of New-Jersey before such justice, in such sum as the said justice shall direct, and with such condition as is specified in the preceding section of this act.

How such writs shall be granted, in vacation, by a justice of the supreme court..

3. *And be it enacted*, That every recognizance, taken by virtue of either of the preceding sections, shall be delivered to the court to which the certiorari is directed, together with the said writ, and the recognizance, so taken, shall be certified into the said supreme court, with the said certiorari, and indictment or presentment, and there filed; and if such recognizance be not delivered, together with the certiorari, to the court, as directed, then it shall be the duty of the said court to proceed to the trial of the said indictment or presentment, in the same manner as if no such certiorari had been allowed or presented.

If no recognizance accompany the certiorari, the court of quarter-sessions to proceed on the indictment.

4. *And be it enacted*, That no writ of certiorari shall be allowed to remove into the supreme court of this state any judgment or order, given or made by any justice or justices of the peace, or court of general quarter-sessions of the peace, unless the party prosecuting such certiorari, or some responsible person in his behalf, shall, before the allowance thereof, with two sufficient sureties, enter into recognizance to the state of New-Jersey, before the supreme court, if in term time, or before one of the justices of the said supreme court, if in vacation, in the sum of one hundred and fifty dollars, with condition, that the party, obtaining such certiorari, shall prosecute the same to effect, without delay, and shall perform such judgment or order as the said supreme court shall give or make thereon, with costs, if costs be awarded. *And further*, That every recognizance, to be taken by virtue of this section, shall be delivered, together with the writ of certiorari, to the justice or justices, or court, to which such writ shall be directed, and the said recognizance shall be certified into the said supreme court, with the said certiorari, and the judgment or order removed thereby, and there filed; and if such recognizance be not so delivered with the certiorari, then it shall

Writs of certiorari for the removal of judgments, or orders from any justice of the peace, or court of sessions, how to be granted in term time, and vacation.

1799.

But this section not to extend to judgments in courts for the trial of small causes.

Writs of certiorari to be void, unless signed by a justice of the supreme court.

Writs of certiorari to be delivered in open court.

be the duty of the said justice or justices, or court of general quarter-sessions of the peace, to proceed on such judgment or order in the same manner as if no certiorari had been allowed or presented: *Provided always*, That this section shall not extend to orders or judgments in actions for debts or demands, between party and party, made cognizable before any justice of the peace, in and by the act, entitled "An act constituting courts for the trial of small causes."

5. *And be it enacted*, That no writ of certiorari shall be granted to remove any indictment, presentment, judgment, order, process, or other proceedings, unless it be signed by one of the justices of the supreme court; and for want thereof, such writ shall be absolutely void and of no effect.

6. *And be it enacted*, That every writ of certiorari for the removal of any indictment, presentment, judgment or order, from any court of general quarter-sessions of the peace, shall be delivered to the same in open court.

PAT. 351.

AN ACT concerning ferries.

Passed the 6th of February, 1799.

Board of freeholders to fix the rates to be taken at ferries.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the board of chosen freeholders shall be, and they hereby are empowered and directed to fix the rates to be taken at the several ferries within their respective counties, and the same, from time to time to revise, alter, amend, or make anew at their discretion.

A table of the rates to be posted up at the ferry.

2. *And be it enacted*, That the owner or keeper of every ferry shall put up and maintain, where such ferry is kept, a post, with a table of the rates, fairly printed, written or painted, in large capitals, fixed and allowed by the said board, annexed thereto, and set up such post, with the table aforesaid, so near the place where the passengers enter the boat used for such ferry, that the said table and rates shall be open and visible to the said passengers. And if the owner or keeper of any ferry fail, neglect, or refuse to put up and maintain a post and table of rates, in the manner and form aforesaid, he shall, for every day he may so fail, neglect or refuse, forfeit and pay one dollar, to be recovered by action of debt, with costs of suit, by any person who will prosecute for the same.

Penalty for neglect.

Clerk's fees for a copy of rates.

3. *And be it enacted*, That the clerk of such board shall be entitled to receive, for a copy of the rates aforesaid, certified under his hand, the sum of fifty cents.

Penalty for taking greater ferriage than the rate fixed.

4. *And be it enacted*, That if any ferryman, keeper of a ferry, or his servant, shall demand or take a greater sum for ferriage, than the rate fixed by the said board, he shall, for every such offence, forfeit and pay three dollars, to be recovered by action or debt, with costs of suit, by any person who will prosecute for the same.

5. *And be it enacted*, That the owner or keeper of every ferry shall, at all times be provided with good and tight boats, flats, wherries or other vessels, suited to such ferry, sufficient in size, strength, steadiness, and accommodation, for the safe and speedy transportation of passengers, horses, cattle, carriages and goods, well furnished with sails, oars, setting-poles, or other necessary implements, and men, prudent, skilful, able bodied, sufficient and competent to such business and service.

1799.

Every ferry to be provided with good boats and skilful ferrymen.

6. *And be it enacted*, That no ferryman shall carry or attempt to carry any person over any ferry in a boat, flat, wherry or other vessel, that is not good and sufficient according to this act, under the penalty of ten dollars, to be recovered by action of debt, with costs of suit, by any person who will prosecute for the same.

Penalty for using insufficient boats.

7. *And be it enacted*, That every owner or keeper of a ferry, who shall not provide good and sufficient sails, oars, setting-poles, or other necessary implements as aforesaid, and such man or men as the condition of the passage shall require, qualified according to this act, for the safe and speedy transportation of passengers, horses, cattle, carriages and goods, shall, for every default therein, pay two dollars, to be recovered by action of debt, with costs of suit, by any person who will sue for the same.

Penalty for not having sufficient implements, or skilful ferrymen.

8. *And be it enacted*, That every ferryman shall give constant and diligent attendance at his ferry, and shall not deny or unnecessarily delay the carrying over any passenger, horses, cattle, carriages or goods, upon the penalty of three dollars for every such offence, to be recovered by action of debt, with costs of suit, by any person who will sue for the same; and such ferryman shall also be liable to an action for damages, at the suit of the party aggrieved: *Provided always*, That no ferryman shall be obliged to put off from his wharf or shore, and pass the said ferry, when it manifestly appears to be hazardous or dangerous for him so to do, on account of any storm, tempest, fresh, or ice.

Penalty on ferrymen who shall deny or delay to carry over passengers.

9. *And be it enacted*, That every ferryman shall have authority to keep or put out of his ferry-boat or other vessel, any person who shall attempt or press to enter, or who shall enter or stay in his said boat or vessel, contrary to his order; and such person, so doing contrary to his order, shall pay one dollar for every offence, to be recovered by action of debt, with costs of suit, by any person who will sue for the same.

Ferrymen may keep or put persons out of their boats.

10. *And be it enacted*, That all persons shall be received into such ferry-boats or vessels, and carried over the ferry according to their arrival or first coming to the said ferry; and any ferryman acting contrary to this rule, shall be liable to the penalties prescribed in and by the eighth section of this act: *Provided nevertheless*, That all public officers, and such as go on public or urgent occasions, as posts, couriers, physicians, surgeons and midwives, shall be carried over first or with the first.

Persons shall be carried over ferries according to their arrival.

Provido as to public officers, &c.

11. *And be it enacted*, That all owners or keepers of ferries shall make, keep and maintain good and safe wharves or places of landing, where they are wanted, upon penalty of forfeiting such sum as the inferior court of common pleas of the county,

Owners of ferries to keep good wharves and landing places.

1799.

where the same shall be wanted, shall, upon complaint to them made, determine and adjudge to be sufficient to make or repair such wharf or convenient landing; which forfeiture shall, by order of the said court, be appropriated and laid out for that purpose.

Former acts repealed.

12. *And be it enacted*, That all and every act and acts, part or parts of any act, within the purview of this act, be, and they are hereby repealed.

PAT. 352.

AN ACT for the limitation of actions.

Passed the 7th of February, 1799.

What personal actions must be commenced within six years.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all actions of trespass, quare clausum fregit, all actions of trespass, detainue, trover and replevin for taking away of goods and chattels, all actions of debt, founded upon any lending or contract, without specialty, or for arrearages of rent due on a parol demise, and all actions of account, and upon the case, except actions for slander, and except also such actions as concern the trade or merchandise between merchant and merchant, their factors, agents and servants, shall be commenced and sued within six years next after the cause of such actions shall have accrued, and not after.

What personal actions must be commenced within four years.

2. *And be it enacted*, That all actions of trespass for assault, menace, battery, wounding, and imprisonment, or any of them, shall be commenced and sued within four years next after the cause of such actions shall have accrued, and not after.

Action for words to be brought within two years.

3. *And be it enacted*, That every action upon the case for words shall be commenced and sued within two years next after the words spoken, and not after.

Proviso in favor of infants, femes covert, and insane persons.

4. *Provided always, and be it further enacted*, That if any person or persons, who is, are, or shall be entitled to any of the actions specified in the three preceding sections of this act, is, are, or shall be, at the time of any such cause of action accruing, within the age of twenty-one years, feme covert, or insane, that then such person or persons shall be at liberty to bring the said action so as he, she or they institute or take the same within such time as is before limited, after his, her or their coming to or being of full age, discover, or of sane memory, as by other person or persons, having no such impediment, might be done.

Actions on sheriff's bonds, heretofore given, to be brought in six years, and hereafter given, in nine years.

5. *And be it enacted*, That any prosecution, hereafter to be had or commenced upon any bond, heretofore given by any sheriff and his securities, for the faithful performance of the office of sheriff, shall in no wise operate against, or in any manner affect the said securities mentioned or bound in said bond, unless such prosecution shall be commenced within six years after the passing of this act; nor shall any prosecution, had or commenced upon any bond hereafter to be given by any sheriff and his se-

curities as aforesaid, in anywise operate against, or affect the said securities named and bound in said bond, unless such prosecution shall be commenced within nine years after the date of the said bond, and not after.

1799.

6. *And be it enacted*, That every action of debt, or covenant for rent or arrearages of rent, founded upon any lease under seal, whether indented or poll, and every action of debt upon any single or penal bill for the payment of money only, or upon any obligation, with condition for the payment of money only, or upon any award under the hands and seals of arbitrators for the payment of money only, shall be commenced and sued within sixteen years next after the cause of such action shall have accrued, and not after; but if any payment shall have been made on any such lease, specialty, or award, within or after the said period of sixteen years, then an action instituted on such lease, specialty, or award, within sixteen years after such payment, shall be good and effectual in law, and not after: *Provided always*, That the time during which the person, who is or shall be entitled to any of the actions specified in this section, shall have been within the age of twenty-one years, feme covert, or insane, shall not be taken or computed as part of the said limited period of sixteen years.

Action of debt or covenant for rent, or of debt on a specialty, to be brought within sixteen years.

Proviso in favor of infants, femes covert, and insane persons.

7. *And be it enacted*, That judgments in any court of record of this state may be revived by scire facias, or an action of debt may be brought thereon, within twenty years next after the date of such judgment, and not after: *Provided*, That the time, during which the person, who is or shall be entitled to the benefit of such judgment, shall have been under the age of twenty-one years, feme covert, or insane, shall not be taken or computed as part of the said limited period of twenty years.

Judgments to be revived by scire facias, or action of debt to be brought thereon within twenty years.

8. Repealed, and supplied by act, Feb. 21, 1820.

9. *And be it enacted*, That no person, who now hath, or hereafter may have any right or title of entry into any lands, tenements or hereditaments, shall make any entry therein, but within twenty years next after such right or title shall accrue; and such person shall be barred from any entry afterwards: *Provided always*, That the time, during which the person, who hath or shall have such right or title of entry, shall have been under the age of twenty-one years, feme covert, or insane, shall not be taken or computed as part of the said limited period of twenty years.

No entry to be made into lands, but within twenty years.

Proviso in favor of infants, femes covert, and persons insane.

10. *And be it enacted*, That from and after the first day of January, which will be in the year of our Lord, one thousand eight hundred and three, every real, possessory, ancestral, mixed, or other action, for any lands, tenements or hereditaments, shall be brought or instituted within twenty years next after the right or title thereto, or cause of such action shall accrue, and not after: *Provided always*, That the time, during which the person, who hath or shall have such right or title, or cause of action, shall have been under the age of twenty-one years, feme covert, or insane, shall not be taken or computed as part of the said limited period of twenty years.

After the first of January, one thousand eight hundred and three, no action to be brought for lands but within twenty years.

Proviso in favor of infants, femes covert, and insane persons.

1799.

Equity of redemption barred, if mortgagee be in possession for twenty years.

Proviso, that the plaintiff, on judgment being reversed or arrested, may bring a new action within one year.

No action to be brought by this state for lands or rents, but within twenty years.

Within what time the orphans' court may direct creditors to exhibit their demands to executors or administrators.

Proviso, that the executors and administrators shall take bond to refund, which shall be filed for the use of certain creditors.

Within what time actions or informations on penal statutes shall be brought or exhibited.

11. *And be it enacted*, That if a mortgagee and those under him be in possession of the lands, tenements and hereditaments, contained in the mortgage, or any part thereof, for twenty years, after default of payment by the mortgagor, then the right of equity of redemption therein shall be for ever barred.

12. *Provided nevertheless, and be it further enacted*, That if in any of the said actions, specified in any of the preceding sections of this act, judgment be given for the plaintiff, and the same be reversed by writ of error, or if a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, then the said plaintiff, his or her heirs, executors, or administrators, as the case shall require, may commence a new action within one year after such judgment reversed or given against the plaintiff, and not after.

13. *And be it enacted*, That no person or persons, bodies politic or corporate, shall be sued or impleaded by the state of New-Jersey, for any lands, tenements or hereditaments, or for any rents, revenues, issues or profits thereof, but within twenty years after the right, title, or cause of action to the same shall accrue, and not after.

14. *And be it enacted*, That the orphans' court of the proper county is hereby empowered to direct executors and administrators to give public notice to the creditors of the estate of the decedent, to bring in their debts, demands and claims against the same, within such time as the said court shall limit and appoint, not exceeding two years, nor less than one year, by setting up such notice in five of the most public places in the said county, for the space of two months, and also by advertising the same, for the like space, in one or more of the newspapers in this state, and any further notice, in case such court shall judge the same necessary. And if any creditor shall neglect to exhibit his or her debt, demand, or claim within the time so limited, after public notice given as aforesaid, such creditor shall be for ever barred of his or her action therefor, against such executors or administrators: *Provided always*, That the said executors and administrators, on the payment of any part of the decedent's estate to any legatee or person claiming distribution thereof, shall take bond to refund as heretofore, and within six months after the expiration of the time, so as aforesaid limited by the orphans' court for creditors to come in and claim, shall cause the same to be filed in the clerk's office of such orphans' court, for the use and benefit of such creditor or creditors as may not have come in and claimed; which said bond or bonds, on application to the said orphans' court and order thereupon, the said creditor or creditors may put in suit against such legatee, or person claiming distribution and their sureties, at his, her, or their own costs and charges, and for his, her, or their own use and benefit; but shall recover no costs thereupon.

15. *And be it enacted*, That all actions or informations, which shall be brought or exhibited for any forfeiture upon any penal statute made or to be made, whereby the said forfeiture is or shall be limited to the state of New-Jersey only, shall be brought or

exhibited within two years next after the offence. to be committed against such penal statute, and not that all actions or informations, which shall be brought or exhibited for any forfeiture upon any penal statute made, the benefit and suit whereof is or shall be, by the statute, limited or given to any person or persons, who shall prosecute for the same, or to the state of New-Jersey and to other, who shall prosecute in that behalf, shall be brought or exhibited by any person or persons, who may lawfully pursue for the same as aforesaid, within one year next after the offence committed or to be committed against the said statute; and in default of such pursuit, that then the same shall be brought or exhibited for the state of New-Jersey, at any time within one year after the termination of the aforesaid year, and not after. And that all actions or informations, which shall be brought or exhibited for any forfeiture or cause upon any statute made or to be made, the benefit and suit whereof is or shall be limited or given to the party aggrieved, shall be brought or exhibited within the space of two years next after the offence committed or to be committed, or cause of action accrued, and not after: *Provided always*, That where any action or information is or shall be limited by any statute to be brought or exhibited within a shorter time than is limited by this section, then the said action or information shall be brought or exhibited within such shorter time so limited by such statute.

Proviso, that if a shorter period be limited by any statute, then to be brought or exhibited within such period.

16. *And be it enacted*, That the act, entitled "An act for the limitation of actions and for avoiding suits in law," passed the tenth day of February, in the year of our Lord, one thousand seven hundred and twenty-seven-eight, be, and hereby is repealed.

A certain act repealed.

See supplement, passed 21st Feb. 1820.

AN ACT to regulate the practice of the courts of law.

PAT. 355.

Passed the 14th of February, 1799

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every person of full age and sound memory may appear and prosecute, or defend any action in any of the courts of judicature of this state, in person, or by his solicitor in chancery or attorney at law.

Every person of full age and sound memory may sue or defend in person or by attorney

2. *And be it enacted*, That no person, except in his own case, or in the case of an infant, shall be permitted to appear and prosecute, or defend any action in any of the said courts, but such as is a licensed solicitor or attorney at law, who shall be under the direction of the court in which he acts.

No person, unless in his own case, &c. shall prosecute or defend any suit, unless he be a licensed solicitor or attorney.

3. *And be it enacted*, That if any counsellor, solicitor or attorney at law shall be guilty of malepractice in any of the said courts, he shall be put out of the roll, and never after be permitted to act or practise as a counsellor, solicitor or attorney at law, un-

An attorney guilty of malepractice in court to be put out of the roll.

1798.

less he shall obtain a new license and be again enrolled in due form of law.

Attorney dying, &c., another to be appointed in his stead.

4. *And be it enacted*, That when any solicitor or attorney shall die, or cease to act, or be put out of the roll, the person, for whom he was solicitor or attorney, shall be warned to appoint another in his stead, and if he fail to do so, the adverse party may proceed in the action.

Infants, how to prosecute and defend.

5. *And be it enacted*, That if an infant be entitled to any action, his guardian or next friend shall be admitted to prosecute for him; and if he be sued, a guardian shall be appointed to defend the suit for him; but in no case shall the parol demur, or the proceedings be deferred or stayed till the infant arrives at full age.

The parol not to demur.

Attorney liable to an action for neglect or mismanagement of a cause.

6. *And be it enacted*, That if any solicitor or attorney at law shall neglect or mismanage any cause, in which he shall be employed, he shall be liable to make good all damages sustained by his client, to be recovered by action of trespass on the case, with costs.

Taxed bill of costs, or copy, to be filed before execution shall issue.

7. *And be it enacted*, That every attorney at law, before he issue execution, shall file the taxed bill of costs or a copy thereof in the office of the clerk of the court, out of which the same is to issue; and if he fail so to do, he shall forfeit ten dollars to the party aggrieved, to be recovered by action of debt, with costs.

The party paying costs may demand a bill of particulars.

8. *And be it enacted*, That when any solicitor or attorney at law shall receive the costs accruing on any suit, he shall, if required by the party at the time of payment, or at any time within six months afterwards, draw up and deliver the bill of particulars, with a receipt, to the party paying, or who shall have paid the same; and if he fail so to do, he shall forfeit ten dollars to the party aggrieved, to be recovered by action of debt, with costs.

Penalty on attorney who shall charge for services not done, or not allowed, or who shall take more than legal fees.

9. *And be it enacted*, That if any solicitor or attorney at law, shall charge in his bill of costs for services not actually done, or for services not allowed by law, or shall take any greater fee or reward for any service by him done, than is or shall be allowed by law, he shall pay to the party aggrieved thirty dollars, to be recovered by action of debt, with costs.

The foregoing penalties to be sued for in one year.

10. *And be it enacted*, That the penalties mentioned in the three preceding sections of this act shall be sued for within one year after the offence committed, and not after.

An attorney shall deliver a copy of the taxed bill of costs to his client, before he sues for the same.

11. *And be it enacted*, That no solicitor or attorney shall commence or maintain any suit for the recovery of any fees, charges or disbursements, in equity or at law, against his client or legal representative, until after such solicitor or attorney shall have delivered to such client or his representative, or left for him at his dwelling-house, or last place of abode, a copy of the taxed bill of such fees, charges, and disbursements.

What officers are to tax and retax bills of

12. *And be it enacted*, That it shall be the duty of the chancellor, and of any of the masters in the court of chancery, to tax

and retax, when necessary, the bills of costs, which shall accrue in the said court; and it shall also be the duty of the judges of the supreme court, and of the inferior courts of common pleas, to tax and retax as aforesaid, the bills of costs which shall accrue in the said courts, respectively; but every retaxation shall be demanded within six months after the party or his attorney had notice of the taxation of the same bill.*

1799.

costs in chancery, and at law.

13. *And be it enacted*, That every warrant of attorney for confessing judgment, which shall be included in the body of any bond, bill or other instrument for the payment of money, shall be void and of none effect; and such bond, bill, or other instrument shall have the same force and no other, as if the said warrant of attorney had not been incorporated therein.

Warrant of attorney not to be included in bond.

14. *And be it enacted*, That every attorney, who shall confess judgment in any case, shall, at the time of making such confession, produce his warrant for making the same, to the court or judge before whom he makes the confession; and a copy of the said warrant shall then be filed with the clerk of the court in which the judgment shall be entered.

Attorney, confessing judgment, to produce warrant, a copy of which shall be filed.

15. *And be it enacted*, That if judgment be not entered within ten years after the date of the warrant of attorney, it shall not be done, without leave of the court; and a motion to enter such judgment shall be founded on an affidavit, that the said warrant was duly executed, that the defendant is living, and that the debt or part of it is unsatisfied.

Judgment shall not be entered on a warrant of attorney after ten years, without leave of the court, and affidavit.

16. *And be it enacted*, That no warrant of attorney for confessing a judgment, executed by any person in custody upon mesne process, in a civil action, to a plaintiff at whose suit he is in custody, shall be of any force, unless some attorney, on behalf of such person in custody, and expressly named by him, be present as a witness, and to inform him of the nature of such warrant.

Of warrants of attorney given by persons in custody.

17. *And be it enacted*, That a warrant of attorney to confess judgment, shall not be revocable by the party making the same.

Warrant of attorney to confess judgment, irrevocable.

18. *And be it enacted*, That the first process to be made use of in personal actions, in any of the courts of law of this state, in cases where the plaintiff is not entitled to bail, shall be a summons, a copy whereof shall be served on the defendant, or left at his dwelling-house or usual place of abode, at least six entire days before its return. And in cases where the plaintiff is entitled to bail, the first process shall be a capias ad respondendum, and shall be executed as hereafter directed.

The first process in personal actions to be a summons, or capias ad respondendum.

19. *And be it enacted*, That every summons, capias ad respondendum, and writ of execution, shall, before the service or execution thereof, be subscribed or endorsed with the name of the attorney, or party, and clerk, by whom such summons, capias ad respondendum, or execution shall be sued forth and sealed.

Name of the attorney, or party, and clerk, to be subscribed or endorsed on process.

* See secs. 3 and 5, act 13th June, 1799.

† See act, 28th February, 1820.

1799:

Sheriff to make return of process, or to be amerced.

If the summons be returned, served, the party to be considered as in court.

A capias ad respondendum, how to be executed and returned.

Sheriff to endorse the names of the bail on the capias, and to return a copy of the bail-bond.

Special bail, when to be filed.

Plaintiff, how to proceed, if special bail be not filed in due time.

If bail and a copy of the bail-bond be not returned, or the plaintiff be dissatisfied with the bail taken by the sheriff, he may rule the sheriff to bring in the body, and if he fail to do so, he shall be amerced.

If the sheriff bring in the body, the de-

20. *And be it enacted*, That it shall be the duty of the sheriff or officer to whom any summons, capias ad respondendum, or other process is directed, to return the same at the time and place therein mentioned, which shall be filed by the clerk of the court; and if the said sheriff or officer fail to make such return, he shall be amerced by the court, in any sum not exceeding the plaintiff's debt or demand, to and for the use of the said plaintiff.

21. *And be it enacted*, That when the said sheriff or other officer shall return such summons, "served" or "summoned," the party shall be considered as being in court, and may be proceeded against accordingly.

22. *And be it enacted*, That the sheriff, or other officer, shall execute the said writ of capias ad respondendum, by taking the body of the defendant, and in such case shall return thereon, that he hath taken the body, or that he hath taken the body into custody; the first usually abbreviated and expressed thus, C. C. and the second thus, C. C. C.

23. *And be it enacted*, That the sheriff or other officer shall endorse on the capias ad respondendum, the names of the bail by him taken, and shall deliver a copy of the bail-bond to the clerk of the court, at or before the return day of the same writ; which copy shall be safely kept by the said clerk, in his office.

24. *And be it enacted*, That special bail shall be filed on the return day of the capias ad respondendum, or on the day after.

25. *And be it enacted*, That if special bail be not put in and perfected in due time, the plaintiff may proceed on the bail-bond, or rule the sheriff to bring in the body of the defendant.

26. *And be it enacted*, That if on a return, that he hath taken the body, or C. C., the sheriff, or other officer, shall not return bail, and a copy of the bail-bond, or if the plaintiff be dissatisfied with the bail taken by such sheriff or officer, and the defendant shall fail to appear and give special bail, within the time above prescribed, the court shall rule such sheriff or officer to bring in the body of the defendant within that same term; and if he fail to do so, the said sheriff or officer shall be amerced by the court in any sum not exceeding the plaintiff's debt or demand, with costs; which amercement shall have the force and effect of a judgment, whereupon an execution, in the name and for the use of the said plaintiff, may instantly, on motion in open court, and without any further proceedings, be awarded and issued against the goods and chattels, lands, tenements, hereditaments and real estate of the said sheriff or officer so amerced as aforesaid: *Provided nevertheless*, If such sheriff or other officer shall cause special bail to be put in and justified, if justification be required, during the same term, he shall be excused from bringing in the body, and no amercement shall be entered against him on the said rule; *And provided further*, That this section shall extend to persons, whose office is expired, as well as to sheriffs and officers for the time being.

27. *And be it enacted*, That if the sheriff or officer, when ruled to do so shall, on a cepi corpus, bring in the body of the

defendant, such defendant shall be committed, and upon the entry of such committitur, the plaintiff may proceed in the action, and declare against the defendant as a prisoner, or being in custody.

28. *And be it enacted*, That the sheriff or other officer, in order to save himself, may put in special bail for the defendant against his consent; and the bail to such sheriff or officer may do the same for their indemnity.

29. *And be it enacted*, That if special bail be filed during the first or second day of the term, to which process is returnable, exception thereto shall be taken and entered in the clerk's book, during the said term, of which the defendant shall take notice at his peril; and in such case, the defendant shall procure his bail to justify in eight days, exclusive, after such exception entered as aforesaid, or shall add other bail, who shall justify within the said eight days; and where bail is filed as aforesaid, an exception entered after the expiration of the said time, shall be of no validity.

30. *And be it enacted*, That two days notice of justification of bail, or of new or additional bail, and justification thereof, shall be given by the defendant or his attorney, to the plaintiff or his attorney, exclusive of the day it is given, and if Sunday intervene, three days notice shall be given.

31. *And be it enacted*, That if the bail do not justify at the time appointed, they shall be out of court; and when they do justify and are allowed, an order of such allowance shall be drawn, and a copy thereof served on the plaintiff or his attorney.

32. *And be it enacted*, That without the consent of the plaintiff or his attorney, in cases where the sheriff or other officer shall be ruled to bring in the body, justification of bail shall not be permitted after the expiration of the term, in which the said rule is entered.

33. *And be it enacted*, That the recognizance of special bail shall be to the effect following:

A. B. }
against } In debt, or case, or as the action may be.
C. D. }

New-Jersey, county, to wit:

Be it remembered, That on the day of in the year of our Lord, one thousand C. D. E. F. and G. H. of the said County of personally appeared before me J. K. one of the justices of the supreme court of the state of New-Jersey (or one of the judges of the inferior court of common pleas in and for the said county of or one of the commissioners to take bail, as the case may be) and severally acknowledged themselves to owe unto A. B. the sum of (double the sum endorsed on the writ) each, to be levied upon their several goods and chattels, lands, tenements, hereditaments, and real estate, upon condition, that if the defendant, C. D., shall be condemned in this action at the suit of A. B., the plaintiff, he shall pay the costs and

1799.

defendant to be committed, and the plaintiff to proceed in the action.

The sheriff or his bail may put in special bail for the defendant.

If special bail be duly filed, within what time the plaintiff shall except, and the bail shall justify.

What notice of justification of bail shall be given.

Bail, not justifying shall be out of court. If allowed, how to proceed.

When justification of bail shall not be permitted without the consent of the plaintiff or his attorney.

Form of recognizance of special bail.

1792.

condemnation of the court, or render himself into the custody of the sheriff of the said county for the same, or if he fail so to do, that the said E. F. and G. H. will pay the costs and condemnation for him.

Taken and acknowledged, the day and }
year above written, before me J. K. }

And that on acknowledging the aforesaid recognizance, the bail piece shall be to the effect following, to wit:

Form of special bail piece.

New-Jersey, supreme court, (or court of common pleas.)

Of the term of in the year of our Lord, one thousand

C. D. of the county of is delivered to bail, on a capi corpus, unto E. F. of the township of in the said county, yeoman, and G. H. of the township of in the said county, yeoman, at the suit of A. B. in a plea of debt (or of trespass on the case, or as the action may be.)

L. M. Attorney for the defendant.

Mode of justifying special bail in the supreme court.

34. *And be it enacted*, That in actions, which are or shall be instituted in the supreme court of this state, special bail may justify by affidavit in the said court, or before one of the judges thereof, either in term time or in vacation, or before one of the commissioners for taking bail; and that such affidavit shall set forth, that the bail are freeholders and residents in the state of New-Jersey, and that they are respectively worth so much (mentioning the sum they are bail for) after all their debts are paid.

Mode of justifying special bail in common pleas.

35. *And be it enacted*, That in actions, which are or shall be instituted in any of the inferior courts of common pleas of this state, special bail may justify by affidavit in the said court, or before one of the judges thereof, either in term time or in vacation; which affidavit shall set forth, that the bail are freeholders and residents in the county of (naming the county for which the said court is held) and that they are respectively worth so much (mentioning the sum they are bail for) after all their debts are paid.

Of the assignment of the bail-bond.

36. *And be it enacted*, That if special bail be not put in and perfected in due time, the plaintiff, if he be satisfied with the bail taken by the sheriff or officer, may take an assignment of the bail-bond in the words, or to the effect following: "I, the within named A. B. do hereby assign and set over the within bond to the within named C. D. the plaintiff, pursuant to the statute.

Witness my hand and seal, this day of in the year of our Lord, one thousand

Signed, sealed and delivered }
in the presence of "A. B." (L. S.)
E. F. G. H. }

And this shall be deemed a good assignment in law to ground an action on such bail-bond.

37. *And be it enacted*, That the proceedings on the bail-bond may be set aside, if irregular, or stayed, if regular, upon terms in order that a trial may be had in the original action.

1799.

38. *And be it enacted*, That where the plaintiff has not, in the original action, for the want of special bail being filed in due time, lost a trial, the court or a judge may stay the proceedings on the bail-bond, upon putting in and perfecting special bail, paying the costs incurred by the assignment and prosecution of the bail-bond, receiving a declaration in the original action, pleading issuably, and taking short notice of trial, so that the cause may be tried the same term, if the plaintiff think fit.

When proceedings on bail-bond may be set aside, and when stayed.

On what terms proceedings on bail-bond may be stayed, where the plaintiff has not lost a trial.

39. *And be it enacted*, That where the plaintiff has lost a trial in the original action, for the want of special bail being filed in due time, it shall be the duty of the court, before proceedings be stayed on the bail-bond, further to require, that the bail consent, that judgment be entered against them on the bail-bond, for the plaintiff's security; and in such case, if the defendant fail in the original action, the bail shall be liable to immediate execution, and shall not discharge themselves by a render of the principal.

On what terms the proceedings on bail-bond may be stayed, where the plaintiff has lost a trial.

40. *And be it enacted*, That if the plaintiff might have had judgment in the original action, if bail had been filed in due time, then the proceedings shall not be stayed on the bail-bond.

In what cases proceedings on bail-bond shall not be stayed.

41. *And be it enacted*, That wherever the defendant is guilty of a neglect in not putting in special bail in due time, by which the bail-bond becomes forfeited, the notice, in case the party means to put in special bail in order to stay proceedings upon the bail-bond, shall be, that he will put in and perfect special bail, in open court, on such a day, specifying the day; and in that case the plaintiff may oppose the bail in court, without its being a waiver of the bail-bond.

In what cases the party must give notice of putting in and perfecting special bail in open court.

42. *And be it enacted*, That every court and judge shall take the fact as sworn to in the affidavit to hold the party to bail, without going into the merits:

In bail, the fact to be taken as sworn.

43. *And be it enacted*, That subsequent to the return of the *capias ad respondendum*, the defendant may render himself, or be rendered in discharge of his bail, either before or after judgment: *Provided*, That such render be made at or before the appearance day of the first *scire facias* against the bail returned *scire feci*, or of the second *scire facias* returned *nihil*, and not after; but in either case the special bail shall pay the costs of the said *scire facias*, and judgment for the same shall be entered against them accordingly.

At what time the defendant may render or be rendered in discharge of his bail.

44. *And be it enacted*, That if the plaintiff proceed against the bail by action of debt on the recognizance, the render of the principal shall be made during the term, to which process against such bail is returnable, and not after; but the bail shall pay the costs of the said action.

When principal shall be rendered, if debt on recognizance be brought.

45. *And be it enacted*, That the court or judge, before whom the render is made, shall make an entry or minute of such ren-

An entry to be made of the render and commitment.

1799.

der and commitment; and thereupon the defendant shall be committed to the custody of the sheriff, or gaoler attending the said court or judge.

And the same being certified to the clerk, he shall enter an exoneretur on the bail-piece.

The effect of the return of C. C. C.

46. *And be it enacted*, That on such render and commitment duly certified to the clerk of the court, if in vacation, or not done in open court, it shall be the duty of the said clerk to enter an exoneretur on the bail-piece, and thereupon the bail shall be discharged: *And further*, That the said bail shall give immediate notice of such render to the plaintiff or his attorney.

47. *And be it enacted*, That where a sheriff or officer returns on a capias ad respondendum, that he hath taken the body into custody, or C. C. C. such return shall have the same effect, as if the sheriff, on a rule for that purpose, had brought the body of the defendant into court, and the court had thereon committed such defendant to the custody of the sheriff; upon which the plaintiff shall declare against the said defendant as a prisoner or in custody.

The bail liable for the sum sworn to, &c. or any less sum, that the plaintiff may recover.

48. *And be it enacted*, That where the plaintiff in any action shall declare for or recover a greater sum than is expressed in the capias ad respondendum, upon which he declares, the bail shall not be discharged, but be liable for so much as is sworn to, or ordered by the court, or a judge, and endorsed on the said process, or for any less sum, which the plaintiff in such action shall recover, together with the costs of the original action.

Old sheriff to be ruled to bring in the body within six months after the expiration of his office.

49. *And be it enacted*, That no sheriff or officer shall be liable to be called upon to produce the body of any defendant on a capias ad respondendum, returned *oepi corpus*, unless he be required so to do within six months after the expiration of his office; and if, on such rule, he shall not bring in the body, he may be proceeded against by amercement in the manner herein before mentioned.

Plaintiff not to declare on a capias until special bail be filed, unless he waives his right.

50. *And be it enacted*, That the plaintiff shall not in any action, instituted by capias ad respondendum, be permitted to declare until special bail be filed and perfected, if required, or the defendant be returned in custody or brought into court, on a rule for that purpose, and a committitur entered, unless the said plaintiff will waive his right, and enter such waiver on the minutes of the court; and then if the sheriff or other officer hath returned on the said capias ad respondendum, that he hath taken the body, or that he hath taken the body into custody, the defendant shall be considered as in court, and may be proceeded against accordingly.

In what time plaintiff shall declare, or be nonprossed.

* Thirty, by act 28th February, 1820.

51. *And be it enacted*, That the plaintiff shall file his declaration against the defendant within *twenty** days after being returned, summoned, or after the entering of special bail and perfecting the same, or his being returned, in custody, or the entering of a committitur, or waiver as aforesaid, or on failure thereof, shall become nonprossed, unless the court, under special circumstances, shall grant the plaintiff further time; and in such case, the plaintiff shall declare within the time so granted, or become nonprossed.

52. *And be it enacted*, That the defendant shall file his plea within thirty days after the expiration of the time limited or granted for filing the declaration, or on failure thereof, judgment shall be entered against him, unless the court, under special circumstances, shall grant the defendant further time; and in such case, the defendant shall plead within the time so granted, or judgment be entered against him. And if further pleadings shall be necessary, they shall be filed within thirty days each after the other, or on failure thereof, the like judgment as aforesaid shall be entered against the party so failing, unless the court, under special circumstances, shall grant further time as aforesaid.*

1709;

In what time the defendant shall plead, or judgment be entered against him.

Further pleadings, when to be filed.

53. *And be it enacted*, That the defendant shall plead within the time limited or granted as aforesaid, without any imparlance,

No imparlance allowable.

54. *And be it enacted*, That the plaintiff or his attorney, if required before plea be filed, shall deliver to the defendant or his attorney, a copy of the account, or a bill of the particulars of the demand, or a copy of the bill, bond, deed, bargain, contract, note, instrument or other writing, whereon the declaration is founded.

Plaintiff to deliver a copy of account, &c. to the defendant, if required.

55. *And be it enacted*, That the defendant or his attorney, if required, shall deliver to the plaintiff or his attorney, a copy of any deed, instrument or writing, of which, in his plea, he shall make a profert in court, or a copy of any bill, bond, deed, note, receipt, bargain, contract, instrument or writing, or a bill of the particulars of any account or demand, which, under the plea of payment, he may, by law, set off or discount against the plaintiff's action.

Defendant to deliver a copy of contract, account, &c. to the plaintiff, if required.

56. *And be it enacted*, That the party, whether plaintiff or defendant, shall take notice of the filing of the declaration or other pleading in the cause, at his peril, without service of a copy or notice of the filing of such declaration or other pleading.*

Notice of filing pleadings, not necessary.

57. *And be it enacted*, That neither the plaintiff or any other person shall be permitted to declare by the bye against the defendant in any action.

Declaration by the bye, not allowable.

58. *And be it enacted*, That the defendant at any time before issue joined, may move the court to consolidate unnecessary actions, or to strike out superfluous counts in the declaration.

Court may consolidate actions, and strike out superfluous counts.

59. *And be it enacted*, That if the defendant, on a *capias ad respondendum*, be returned in custody, or, when produced in court, be committed by order of the court, the plaintiff, if he have other cause of action, or any other person having cause of action, against the said defendant, shall issue process against such defendant, in the same manner as if he was at large, and not in custody or in prison; and on such process, when served, the like proceedings shall be had as in other cases.

If the defendant be in custody, process shall be served upon him in a new action, as in other cases.

60. *And be it enacted*, That if the plaintiff amend his declaration, the defendant shall have twenty days to alter his plea or to plead anew; and if the defendant amend his plea, the plaintiff shall have twenty days to alter his replication or to reply anew;

If the plaintiff or defendant amend, what time shall be allowed to plead or reply anew.

* See 3d and 4th sections of act 28th Feb. 1820.

1799.

Amendments
to be made
on equitable
terms

Party to join
in demurrer in
thirty days.

Either party
may move for
argument of
demurrer.

The issue in
law to be de-
termined be-
fore issue in
fact.

At what term,
after issue
joined, causes
shall be tried.

Ten days no-
tice of trial
to be given.

Countermand
of such notice
to be given
five days be-
fore trial.

Short notice to
be given three
days before
trial.

Trial by pro-
viso, and no-
tice thereof.

and the like time shall be allowed if any of the subsequent pleadings be amended; but all amendments shall be made on such equitable terms as the court shall direct.

61. *And be it enacted*, That if the plaintiff or defendant shall not join in demurrer in thirty days after the filing thereof, such plaintiff, shall be nonprossed, and such defendant shall have judgment awarded against him.

62. *And be it enacted*, That when the issue is upon matter of law, either party may move the court for a day to be appointed for the argument of the demurrer; but no demurrer books shall be made up.

63. *And be it enacted*, That where there are several issues, in law and in fact, the issue in law shall be first determined, before the issue in fact shall be tried.

64. *And be it enacted*, That every cause shall be tried at the next court after issue joined, or on failure thereof, judgment shall be awarded for the defendant as in case of a nonsuit; unless the court, upon just cause and reasonable terms, allow further time for the trial of said cause; and if the plaintiff neglect to try such cause within the time so allowed, then the said court shall proceed to give such judgment as aforesaid, which shall be of the like (and no other) force and effect, as a judgment upon nonsuit; and the defendant shall, upon such judgment, be awarded his costs in any action, where he would upon nonsuit be entitled to the same, and in no other: *Provided*, That there be, between the joining of the said issue and the next term, sufficient time to give the requisite notice of trial, and if there be not, then the trial shall be had at the subsequent term.

65. *And be it enacted*, That notice of trial shall be in writing, and given to the defendant, if he appear in person, or to his attorney, or to the sheriff or keeper of the gaol, if the defendant be in custody or in prison, at least *ten** entire days, exclusive of Sundays, before such intended trial. And it shall be the duty of the said sheriff or gaoler to deliver, without delay, the said notice to the defendant therein named; and in default thereof, the said sheriff or gaoler shall be liable to the said defendant for all damages occasioned thereby.

66. *And be it enacted*, That every countermand of notice of trial shall be in writing, and given at least five entire days, exclusive of Sunday, before such intended trial; and on failure thereof, costs shall be awarded in like manner, as if notice of trial had not been countermanded.

67. *And be it enacted*, That short notice of trial, when directed by the court, shall be given three entire days, exclusive of Sunday, before such trial.

68. *And be it enacted*, That if the plaintiff do not bring on the trial of the cause in due time after issue joined, the defendant, instead of taking judgment as in case of a nonsuit, may

* Twenty days, in supreme court: fifteen days, in the courts of common pleas. See 12th sec. of supplement, 29th February, 1820.

move the court for a trial by proviso; and of such trial, the defendant shall give the like notice to the plaintiff, as the plaintiff would have been obliged to give to the defendant; and if the defendant do not proceed to trial according to notice, or countermand the same in due time, the plaintiff shall be entitled to costs.

69. *And be it enacted*, That all notices of trial shall be filed with the clerk at least two days before the term; whose duty it shall be to furnish the judges, on the first day of every term, with a list of the causes to be tried and argued, in their course and order.

70. *And be it enacted*, That where interlocutory judgment, in actions of assumpsit, shall be entered by default against the defendant, the court shall assess the damages, and give final judgment, unless the plaintiff or defendant shall request a writ of inquiry.

71. *And be it enacted*, That the same notice shall be given of executing writs of inquiry and of countermand, as is required for the trial of issues in fact.

72. *And be it enacted*, That if the plaintiff shall not proceed to execute the writ of inquiry according to notice, or countermand such notice in due time, the defendant shall be entitled to costs.

73. *And be it enacted*, That if the plaintiff reside out of this state, he shall, if required before issue joined, give bond to the defendant in one hundred dollars, with sufficient sureties, being freeholders and residents in this state, with condition to prosecute his action with effect, and to pay costs if he discontinue, be nonsuited, or a judgment pass against him; which bond shall be filed in the clerk's office of the court in which such action is or shall be pending.

74. *And be it enacted*, That the party against whom a verdict hath been rendered, may first move for a new trial, and if it be denied, may then move in arrest of judgment; but he shall not be permitted to move for a new trial, after he hath moved in arrest of judgment and failed.

75. *And be it enacted*, That the declaration, pleadings, and other papers, relative to every cause, shall be all filed together in the office of the clerk of the court.

76. *And be it enacted*, That when any civil cause, of whatever nature it be, shall be finally determined, the clerk of the court shall enter the warrants of attorney, declaration, pleadings, proceedings and judgment in such cause, so as to make a complete record thereof, in a separate book to be kept for that purpose, with a complete alphabetical index to the same; which record shall be signed by one of the judges of the said court, as of the day on which the judgment was entered; and the clerk, for such service, shall be allowed one dollar, and no more.

77. *And be it enacted*, That no judgment roll shall be made up in any action in any of the courts of this state; but the entry, in manner aforesaid, of the warrants of attorney, declaration, pleadings, proceedings and judgment, shall constitute the record.

1799.

Notices of trial, when to be filed.

Clerk to furnish the judges with a list of causes to be tried and argued.

Courts to assess damages in certain cases.

What notice to be given of executing writs of inquiry.

Plaintiff to pay costs, if he does not execute writ of inquiry.

Plaintiff, if a non-resident, shall, if required before issue, give bond, with sureties, for the payment of costs.

Of motion for new trial, and in arrest of judgment.

All the pleadings in a cause to be filed together.

Records to be made of all causes which shall be determined.

No judgment roll to be made up.

1799.

Nor inspection of judgment and process.

The sum due to be endorsed on the capias ad satisfaciendum.

When the plaintiff may proceed against the special bail.

When and how proceedings against special bail may be stayed, when error is brought by the principal.

When such proceedings shall not be stayed.

No execution on the second judgment, pending a writ of error on the first.

Where a writ of error shall not supersede an execution.

Of costs on arrest of judgment.

Special bail required in every case removed by habeas corpus into the supreme court. Special bail to be filed on the return day of the habeas corpus.

In what time and manner exception shall be taken against, and justification made by each bail.

78. *And be it enacted*, That the inspection of judgment and process, shall not be deemed necessary in any case.

79. *And be it enacted*, That the plaintiff shall endorse on every capias ad satisfaciendum, before the delivery thereof to the sheriff, the real debt or damages due and claimed by such plaintiff, and the costs of suit, in words at length.

80. *And be it enacted*, That after a capias ad satisfaciendum shall have been returned, non est inventus, by the sheriff or officer, the plaintiff may proceed against the special bail upon their recognizance.

81. *And be it enacted*, That on a scire facias or action of debt against the special bail, on their recognizance, when a writ of error is brought by the principal and allowed, and the said bail apply within the time limited for surrendering the principal, the court may stay the proceedings against such special bail, if they enter into recognizance to the party, for whom judgment is given, in double the sum recovered, to pay the condemnation money, or surrender the principal to the custody of the sheriff, within twenty days next after the determination of the said writ of error, if it be in favor of the defendant in error.

82. *And be it enacted*, That the court shall not stay proceedings against the special bail, pending the writ of error, by their principal, if they do not make application for that purpose, till their time to surrender the principal be expired.

83. *And be it enacted*, That if the defendant bring a writ of error, and the plaintiff bring an action on the judgment and recover, he shall not sue out execution on the second judgment, till the writ of error be determined.

84. *And be it enacted*, That where it is apparent to the court, that a writ of error is brought against good faith, or for the mere purpose of delay, or it is returnable of a term previous to the entry of final judgment, or special bail, when requisite, is not put in and perfected in due time, it shall not be a supersedeas or stay of execution.

85. *And be it enacted*, That where judgment is arrested, each party shall pay his own costs.

86. *And be it enacted*, That no cause shall be removed into the supreme court of this state, by writ of habeas corpus, or otherwise, unless the defendant shall enter into recognizance to the plaintiff, with two sufficient sureties, in double the sum demanded, for the payment of the condemnation money, and costs, in case judgment shall pass against him.

87. *And be it enacted*, That the special bail, required by the preceding section, shall be filed on the return day of the writ of habeas corpus; or else a procedendo shall be awarded.

88. *And be it enacted*, That exception to, and justification of, special bail upon a habeas corpus, shall be taken and made within the time and in the manner herein before prescribed in other cases; and if such bail when excepted to, shall not be perfected in due time, the plaintiff shall have a procedendo.

89. *And be it enacted*, That upon the return of the habeas corpus, the plaintiff shall be deemed to be in court, and the declaration and pleadings of the parties shall be filed within the time allowed or granted in other cases; or else the plaintiff shall be nonprossed, or judgment be awarded against the defendant.

1799.

On the habeas corpus, the pleadings to be filed as in other cases.

90. *And be it enacted*, That every special verdict and demurrer to evidence shall be entered on the minutes of the court; after which either party may move the court to assign a day for argument.

Of special verdict and demurrer to evidence.

91. *And be it enacted*, That no plaintiff shall proceed in ejectment to recover any lands or tenements against a casual ejector, without ten days previous notice being given to the tenant in possession, if any there be, and making him or his landlord, or both, or other proper person with the tenant, defendant in the action, if such tenant, or landlord, or other proper person choose to be made defendant.

Plaintiff in ejectment to give ten days notice to the tenant in possession.

92. *And be it enacted*, That the plaintiff, on affidavit of the delivery of the declaration in ejectment, shall have judgment against the casual ejector, unless the tenant in possession, or landlord, or both, or other proper person with such tenant, shall apply to be made defendant, and enter into the common or consent rule, within the term, to which the said tenant had notice to appear.

Within what time, the tenant, &c. shall enter into the common rule, or judgment be had against the casual ejector.

93. *And be it enacted*, That in ejectment, where the plaintiff or his lessor is unknown to the defendant, the latter may call for an account of his residence, or place of abode, from the opposite attorney; and if he refuse to give it, or give in a fictitious account of a person who cannot be found, the court, if moved before issue joined, may stay the proceedings until security be given for the payment of costs.

How proceedings in ejectment may be stayed where the plaintiff or his lessor is unknown.

94. *And be it enacted*, That in ejectment, where the lessor of the plaintiff resides out of this state, or is an infant, or dead, the court, if moved before issue joined, may stay proceedings until a real and substantial person be named, or security be given for the payment of costs.

How, if the lessor of the plaintiff be a non-resident, an infant, or dead.

95. *And be it enacted*, That if an action for the mesne profits shall be brought in the name of the nominal plaintiff in ejectment, the court, if moved before issue joined, may stay proceedings until security be given for the payment of costs.

How, in an action for the mesne profits by the nominal plaintiff in ejectment.

96. *And be it enacted*, That the plaintiff in error in the supreme court, shall assign and file errors, and serve a copy thereof on the defendant in error, or his attorney, in thirty days after the first day of the term to which the writ is returnable, or be nonprossed, unless the court shall grant further time, and in such case, the plaintiff shall assign and file errors, and serve a copy of the same on the defendant or his attorney, within the time so granted, or be nonprossed.

Plaintiff in error, in the supreme court, to assign errors in thirty days.

97. *And be it enacted*, That the defendant shall join in error within thirty days after the expiration of the time limited or granted for assigning, filing and serving errors, or the errors shall be

The defendant to join in error in thirty days thereafter.

1799. taken as confessed, and the cause be set down to be heard ex parte.

After joinder, either party may move for argument.

Within what time writ of error shall be returned.

The inferior courts of common pleas, to lay out and assign prison-bounds.

Courts may make rules of practice.

This act not to affect courts for the trial of small causes.

98. *And be it enacted*, That after joinder in error, either party may move the court to appoint a day for the argument of the cause; but no paper-books shall be necessary.

99. *And be it enacted*, That the party, prosecuting such writ of error, shall procure the same to be returned to the day in term, to which it is made returnable, or shew good cause, why it is not returned, or on failure thereof, the said writ shall be null and void.

100. *And be it enacted*, That the inferior courts of common pleas of this state, are hereby respectively empowered and required, to mark and lay out the bounds and rules of the prisons in their several counties, not exceeding three acres of land adjoining to such prison; which marks and bounds shall be recorded by the clerk of the said court, and may be altered or renewed from time to time as occasion may require; and every prisoner, in any civil action, giving bond to the sheriff, with sufficient sureties, being freeholders and residents in the county, in double the sum for which he is committed, that he will keep within the said bounds, shall have liberty to walk therein; and if he walk out of the said bounds, the said bond shall be forfeited, and the sheriff, at the request of the plaintiff, or his attorney, shall assign such bond to the said plaintiff, by endorsing the same, and attesting it under his hand and seal, in the presence of two or more witnesses, and the said plaintiff may bring an action thereon in his own name.

101. *And be it enacted*, That the justices of the supreme court, and the judges of the courts of common pleas in every county of this state, shall make such rules and regulations for expediting and conducting suits, and the management of business in their respective courts, as they shall from time to time judge proper, provided the same be not contrary to this act; which rules and regulations shall be fairly engrossed or printed, and put up by the clerks of said courts respectively, and constantly kept up in some conspicuous place in the clerk's office and court-house of the supreme court, and clerk's office and court-house of every county in the state. And in order that the rules of practice and proceedings of the several courts of common pleas may be uniform, and as near as may be, conformable to the rules of the supreme court, the justices of the supreme court shall order the clerk of said court to transmit copies of their rules and regulations to the clerks of the courts of common pleas in every county, that the judges of the said courts may, from time to time, make rules and regulations agreeably thereto, as near as may be, for the practice of their courts respectively.

102. *And be it enacted*, That nothing in this act, nor any matter or thing therein contained, shall be considered as applicable to or in any way affect the court established in this state, by virtue of "An act constituting courts for the trial of small causes."

103. *And be it enacted*, That the act, entitled "An act to amend and continue an act, entitled "an act to provide a more effectual remedy against excessive costs in the recovery of debts above ten pounds, and for other purposes therein mentioned," passed the nineteenth day of June, in the year of our Lord, one thousand seven hundred and eighty-three, and the act, entitled "An act for regulating and shortening the proceedings in the courts of law," passed the thirtieth day of August, in the year of our Lord, one thousand seven hundred and eighty-four, and the act to amend the same, passed the twenty-sixth day of November, in the year of our Lord, one thousand seven hundred and eighty-eight, be, and they hereby are repealed: *Provided*, That such repeal shall not affect any action brought by virtue of the aforesaid act, entitled "An act for regulating and shortening the proceedings in the courts of law;" but the same may be proceeded upon to judgment and execution, in the like manner as if this act had not been made.

1799.

Certain acts repealed.

See supplement, passed 28th February, 1820.

AN ACT respecting the office of treasurer.

PAT. 366.

Passed the 16th of February, 1799.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the treasurer of this state, shall, prior to entering upon the duties of his office, take and subscribe an oath of office, and give bond, with sufficient sureties, to be approved of by the legislature, in the sum of fifty thousand dollars, payable to the state of New-Jersey, with condition for the faithful performance of the duties of his office, and for the fidelity of the person or persons to be by him employed; which oath and bond shall be deposited in the office of the secretary of this state.

Treasurer to take an oath of office and to give bond for the performance of the duties of his office.

2. *And be it enacted*, That the said oath of office shall be in the following words, to wit:

I, _____, appointed treasurer of the state of New-Jersey, do solemnly promise and swear, that I will, to the utmost of my knowledge and ability, well, honestly, and faithfully perform the duties of the office of treasurer of the said state; and that I will not, on any pretence or occasion, apply any money, securities or stock, which shall come to my hands, as belonging to the said state, to any private use or purpose.

Form of his official oath.

So help me God.

Which oath, the vice-president, or any of the justices of the supreme court is hereby empowered and required to administer.

3. *And be it enacted*, That the condition of the aforementioned bond shall be in the words or to the effect following, that is to say:

1799.

Condition of
the treasurer's
bond.

The condition of this obligation is such, that if the above bounden shall, from time to time, and at all times, render a just and true account to the legislature of the state of New-Jersey, when by them thereunto required, of all the moneys, securities, stock, and other property of the said state, which shall come to his hands, or be committed to his charge, and deliver the moneys, securities, stock, and other property of the said state in his hands, together with all documents, instruments of writing, papers, and books belonging to or for the use of the said state, to his successor in office, and shall well, honestly, and faithfully perform all the duties of the office of treasurer of the said state, and shall answer for all improper appropriations, waste, embezzlements, or destruction of the said moneys, securities, stock, property, documents, instruments of writing, papers or books, which shall be done or committed by any person or persons to be by him employed in the said office; then this obligation to be void, otherwise to be and remain in full force and virtue.

Which bond shall be executed before the vice-president, or one of the justices of the supreme court of this state.

When the legislature may require the treasurer to give further security.

4. *And be it enacted*, That the legislature, or either branch thereof, may, when they suspect the obligors in the said bond to be insufficient, require the treasurer to give another bond, with sureties, to be approved of as aforesaid.

If the treasurer die, resign, &c. in what manner his accounts are to be settled, and the official papers disposed of.

5. *And be it enacted*, That if the said treasurer die, resign, be displaced, or cease to hold his office, then such treasurer, or, if he be dead, his heirs, executors, or administrators, shall fairly and regularly state the account, and deliver the moneys, securities, stock, property, instruments of writing and books of the state, in his or their possession, to the succeeding treasurer, who shall make report thereon to the legislature; and the said report, if confirmed by the legislature, shall be a discharge of the said bond, which in such case shall be delivered to the said treasurer, or his heirs, executors or administrators.

Duties of the treasurer.

6. *And be it enacted*, That it shall be the duty of the said treasurer to receive and keep the moneys of this state, to disburse the same agreeably to law, and to take receipts for all moneys, which he shall pay, to keep accounts of the receipts and expenditures of the public money, and of all debts due to or from this state; to superintend the collection of the revenue, to direct prosecutions for delinquencies of officers of the revenue, and for debts, that are or shall be due to this state; to make reports and give information to either branch of the legislature, in person or in writing, as he may be required, respecting all matters referred to him by the council or house of assembly, or which shall appertain to his office, and generally to perform all such services relative to the finances, as he shall be directed to perform.

How the treasurer is to keep his accounts.

7. *And be it enacted*, That it shall be the duty of the treasurer to state in books, the account of moneys, which he shall receive for taxes, impositions, debts, fines, penalties, forfeited estates, or on any other account, for or in behalf of this state, and which he shall pay in pursuance of acts and resolutions of the

legislature, in such a manner as that the net produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in payment of the several demands, may distinctly appear, and lay from time to time the same accounts, and all other his proceedings relative to his office, before the legislature.

1799.

8. *And be it enacted*, That all and every act and acts, part or parts of any act, within the purview of this act, be, and they are hereby repealed. Repealing clause.

AN ACT for the relief of persons, who are scrupulous of taking an oath in the usual form. PAT. 367.

Passed the 16th of February, 1799.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every person, who shall be permitted or required to take an oath in any case, where, by law, an oath is allowed or required, may take the same with the ceremony of lifting up the hand and swearing by the ever living God, instead of that of touching and kissing the book of the gospels; and every person, who is or shall be empowered and required to tender and administer an oath in the usual form, shall be and hereby is empowered and required, on request of the party to be sworn, to administer the same in the manner herein before prescribed. Persons permitted to swear by lifting up the hand.

2. *And be it enacted*, That an oath, which shall be administered and taken agreeably to the mode prescribed in the preceding section of this act, shall be as good and effectual, as if the same had been administered and taken in the usual form of laying the hand on and kissing the gospels. The validity of such oath.

3. *And be it enacted*, That in all cases, where by any act of the legislature of this state now in force or hereafter to be made, an oath is or shall be allowed or required, the same shall, on the request of the party to be sworn, be taken with the ceremony of lifting up the hand and swearing by the ever living God, instead of that of touching and kissing the book of the gospels, although no provision for that purpose is or shall be made in such act. Such oath may be taken in every case, where an oath in usual form is or shall be required.

4. *And be it enacted*, That if the person, who shall take such oath and swear as aforesaid with the uplifted hand and by the ever living God, shall falsely, wilfully and corruptly swear or depose any matter or thing, which, if the same had been sworn or deposed in the usual form, would have amounted to wilful and corrupt perjury; then such person, so offending, shall be deemed and adjudged to be guilty of wilful and corrupt perjury, and, on conviction thereof, shall be punished accordingly. The person taking such oath and swearing falsely, to be guilty of perjury.

5. *And be it enacted*, That every person, who shall be permitted or required to take an oath in any case, where by law, an oath is allowed or required, and who shall allege, that he or she is conscientiously scrupulous of taking an oath, shall instead of the form of an oath, be permitted to make his or her solemn af- Persons, conscientiously scrupulous of taking an oath, may declare or affirm.

1799.

firmation or declaration. And if such person shall choose to affirm, it shall be in the words following, to wit:

Form of affirmation.

I, _____ do solemnly, sincerely and truly declare and affirm:

But if such person shall choose to declare, it shall be in the words following, to wit:

Form of declaration.

I, _____ do declare, in the presence of Almighty God, the witness of the truth of what I say:

The validity of such affirmation or declaration.

Either of which forms shall be as good and effectual in law, as an oath taken in the usual form. In which affirmation or declaration, the words, "So help me God," at the close of the usual oath, shall be omitted.

Authority given to administer such affirmation or declaration.

6. *And be it enacted*, That every person, who is or shall be empowered and required to tender and administer an oath in the usual form, shall be, and hereby is empowered and required to tender and administer the affirmation or declaration aforesaid, when requested to that purpose by any such scrupulous person as aforesaid.

Such an affirmation or declaration may be taken in every case where an oath in usual form is or shall be required.

7. *And be it enacted*, That in all cases, where by any act of the legislature of this state, now in force or hereafter to be made, an oath is or shall be allowed or required, the affirmation or declaration, in the form above prescribed, of any such scrupulous person as aforesaid, shall be allowed and taken instead of an oath in the usual form, although no provision for that purpose is or shall be made in such act.

A false affirmation or declaration to be punished as perjury.

8. *And be it enacted*, That if any person, who shall make such affirmation or declaration, shall falsely, wilfully and corruptly affirm or declare any matter or thing which, if the same had been sworn or deposed in the usual form, would have amounted to wilful and corrupt perjury; then such person, so offending, shall be deemed and adjudged to be guilty of wilful and corrupt perjury, and, on being convicted thereof, shall be punished accordingly.

Former acts repealed.

9. *And be it enacted*, That all and every act and acts, and part and parts of any act, within the purview of this act, shall be, and they are hereby repealed.

PAT. 309.

AN ACT making lands liable to be sold for the payment of debts.

Passed the 18th of February, 1799.

Lands made liable to be taken and sold by executions.

* 1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all lands, tenements, hereditaments and real estate, shall be, and hereby are made liable to be levied upon and sold by executions to be issued on judgments, which are or shall be obtained in any court of record of this state (except justices' courts constituted for the trial of small causes) for the payment and satisfaction of the debt, damages, sum of money, and costs, so recovered or to be recovered.

2. *And be it enacted*, That no judgment shall affect or bind any lands, tenements, hereditaments or real estate, but from the time of the actual entry of such judgment on the minutes or records of the court.

1799.

Lands bound from the time of entering judgment.

3. *And be it enacted*, That no writ of execution shall bind the property of the goods of the person against whom such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under-sheriff, coroner, or other officer, his deputy or agent, to be executed; and for the better manifestation of the said time, such sheriff, under-sheriff, coroner, or other officer, his deputy or agent shall, upon the receipt of any such writ, endorse thereon, without fee for so doing, the day of the month and year when he received the same; and if two or more writs of execution shall be delivered against the goods of the same person, on the same day, that which was first delivered shall be first executed and satisfied.

Goods bound from the time of delivering execution to sheriff.

Time of such delivery to be endorsed on the execution.

4. *And be it enacted*, That where sundry writs of execution shall be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the same person, and sufficient cannot be found to satisfy all the sums commanded to be made, then the like priority and preference shall be given in such cases, as is given by the preceding section of this act, in writs of execution against the goods only, and all disputes respecting the same shall be adjudged and determined accordingly; and for that purpose the like endorsement, as aforesaid, shall be made on the said writs, by the proper officer, of the time that he shall have respectively received the same.

The like rule of preference to obtain in executions against lands as in executions against goods, when delivered on the same day.

5. *And be it enacted*, That upon judgment obtained, or to be obtained, for debt, damages, and costs, or other sum of money, in the supreme court, or any of the inferior courts of common pleas of this state, the party obtaining the same may have an execution against the body, or against the goods and chattels, or against the goods and chattels, lands, tenements, hereditaments and real estate of the party, against whom such judgment is or shall be awarded; but no execution shall be issued against the proper goods and chattels, lands, tenements, hereditaments and real estate of any executor, administrator, heir or devisee, unless he or she shall have made his or her estate liable for the money so recovered by false pleading or otherwise.

Execution may be issued against the body or estate of the party.

6. *And be it enacted*, That in every writ of execution, which shall be issued against lands, tenements, hereditaments and real estate, the sheriff or other officer, to whom the said writ may be directed, shall be commanded, that of the goods and chattels, in his county, of the party, against whom such execution issues, he cause to be made the debt, damages, and costs, or sum of money mentioned in the said execution; and if sufficient goods and chattels of the said party cannot be found in his county, that then he cause the whole or the residue, as the case may require, of the said debt, damages and costs, or sum of money, to be made of the lands, tenements, hereditaments, and real estate, whereof the said party was seized on the day, when the said lands, tenements, hereditaments and real estate became liable to

In what form and manner execution shall issue against lands and real estate.

1799.

such debt, damages and costs, or sum of money, specifying the day particularly, or at any time afterwards, in whose hands soever the same may then be; but when such execution shall be issued against terretenants, or heirs, or devisees (unless they shall have made their estate liable by false pleading or otherwise) it shall only command the sheriff or other officer, that of the lands, tenements, hereditaments and real estate, whereof the ancestor, testator, or person deceased, was seized on the day, when the said lands, tenements, hereditaments and real estate, became liable as aforesaid, or at any time afterwards, or at the time of his or her death, as the case may require, he cause to be made the debt, damages, and costs, or sum of money, in the said writ mentioned.

Sum due to be endorsed on the execution.

7. *And be it enacted*, That the party, at whose instance any writ of execution shall issue against the body, or against the goods and chattels, or against the goods and chattels, lands, tenements, hereditaments and real estate of any person, shall endorse on the said writ, before it be sealed, the debt, damages, and costs, or sum of money, really due and to be made.

Executions against lands to be recorded.

8. *And be it enacted*, That every writ of execution, which shall be sued forth against lands, tenements, hereditaments and real estate, shall, before it be delivered to the sheriff or other officer, be recorded in a book by the clerk of the court, out of which the same was issued; and the record of such writ, so made, shall be as good evidence as the writ itself.

Lands taken in execution to be advertised two months before the time of sale.

9. *And be it enacted*, That the sheriff or other officer, who, by virtue of such writ of execution, levies on any lands, tenements, hereditaments and real estate, shall give notice, by advertisements, signed by himself, and put up at five or more public places in the county, one whereof to be in the township, where the said lands, tenements, hereditaments and real estate do lie, of the time and place where they will be exposed to sale, at least two months before the time appointed for selling them; and shall, at the time and place so appointed, between the hours of twelve and five in the afternoon, expose the said lands, tenements, hereditaments and real estate to sale by public vendue, and strike off the same to the highest bidder.

The sheriff may adjourn the said sale twice, and no more, and then not exceeding one month each time.

10. *And be it enacted*, That it shall be lawful for the said sheriff or other officer to make two adjournments, and no more, of the sale of lands, tenements, hereditaments and real estate, so by him taken in execution, to any time not exceeding one month for each adjournment; and if the said sheriff or other officer shall adjourn such sale or vendue oftener, or for a longer time, without permission, in writing, previously obtained of the party, at whose instance the said writ of execution was issued, he shall be, and hereby is made liable to the amount of the debt, or damages and costs, or sum or sums of money, mentioned in the said writ, with interest; and for the recovery thereof may be amerced and proceeded against in the manner prescribed in and by the twenty-second section of the act, entitled "An act concerning sheriffs." *Provided always*, That if the said sheriff or other officer, shall, after two adjournments as aforesaid, sell the lands, tene-

But if the sheriff, after two adjournments,

ments, hereditaments and real estate, and bring the whole amount of the product of such sale (after deducting his lawful fees) into the court, from whence such execution issued, at any time before the entry of such amercement against him as aforesaid, the said sheriff or other officer shall be exonerated from all liability to the said amercement.

1799.

and before amercement, bring the money into court, he shall be exonerated.

11. *And be it enacted*, That the person, whose lands, tenements, hereditaments and real estate are so taken in execution, may, if part of them be sufficient to satisfy such execution, elect what part thereof shall be sold; and thereupon it shall be the duty of the said sheriff or other officer to sell the part so elected, and no other, if it be sufficient: *Provided always*, That such election shall be made in writing, signed by such person, and delivered to the said sheriff or other officer, at least twenty days previous to the time appointed for the sale.

The party, whose lands are taken in execution, may elect what part thereof shall be sold.

12. *And be it enacted*, That the sheriff or other officer, who, by virtue of such writ or writs of execution, shall sell as aforesaid the lands, tenements, hereditaments and real estate, or any part or parcel of them, so levied upon, shall make to the purchaser thereof as good and sufficient a deed or conveyance for the lands, tenements, hereditaments and real estate so sold, as the person, against whom the said writ or writs of execution were issued might or could have made for the same at or before the time of rendering judgment against him or her; which deed or conveyance shall transfer to and vest in the said purchaser, as good and perfect an estate to the premises therein mentioned, as the person, against whom the said writ or writs of execution were issued, was seized of or entitled to at or before the said judgment, and as fully, to all intents and purposes as if such person had sold the said lands, tenements, hereditaments and real estate to such purchaser, and had received the consideration money, and signed, sealed, and delivered a deed for the same: *And further*, That the said deed or conveyance, so to be made by the said sheriff or officer, shall recite the writ or writs of execution, by virtue whereof the said lands, tenements, hereditaments and real estate therein described, were sold as aforesaid.

Sheriff to make deeds for lands, by him sold in virtue of executions; which deeds shall be as good and effectual as if they had been made by the party.

13. *And whereas* other judgments, statutes, and recognizances, besides those, or some of those, by virtue whereof the sale aforesaid was made, might affect the lands, tenements, hereditaments and real estate so sold, if no provision be made to remedy the same; and whereas the persons, who have not taken, or will not take out executions upon their judgments, statutes, or recognizances, ought not to hinder or prevent such as do take out executions from having the proper effect and fruits thereof: *Therefore, be it enacted*, That the purchaser, his heirs and assigns, shall hold the lands, tenements, hereditaments and real estate, by him or her purchased as aforesaid, free and clear of all other judgments, recognizances, statutes-merchant and statutes-staple whatsoever, on or by virtue of which no execution has been taken out and executed on the lands, tenements, hereditaments, and real estate so purchased.

Land sold by sheriff to be clear of all judgments, on which executions have not been issued.

14. *And be it enacted*, That if any judgment or execution

1799.

Reversal of judgment, for error, not to affect lands sold prior to such reversal.

(the said execution being recorded as aforesaid) by virtue whereof such sale as aforesaid shall be made of any lands, tenements, hereditaments and real estate, shall be reversed for error, such reversal shall not be given in evidence, or be of any force or avail against any bona fide purchaser under the said judgment or execution; but the said purchaser, his heirs and assigns, shall hold the said lands, so bona fide purchased, notwithstanding such reversal, if it be posterior to the said purchase; and further, such reversal shall only operate against the defendant in error, his heirs, executors and administrators, to compel compensation to be made to the party aggrieved to the full value of the lands, tenements, hereditaments and real estate so sold as aforesaid.

How and in what cases a succeeding sheriff may make deed for lands sold by his predecessor in office.

15. *And be it enacted*, That if any sheriff, who hath made or shall make sale of any lands, tenements hereditaments and real estate, by virtue of an execution against the same, shall abscond, or depart from the state, or be disqualified by law, or rendered unable by death, or otherwise incapable, to make a deed or conveyance for the same, it shall be lawful for any succeeding sheriff of the county, on receiving a certificate from the inferior court of common pleas of such county, signed by the clerk by order of the said court, setting forth, that sufficient proof hath been made to the said court, that such sale was fairly and legally made, and on tender of the purchase money, or if the purchase money or any part of it has been paid, then on proof of such payment, and on tender of the residue, if any be, to sign, seal and deliver to the said purchaser, or his legal representative, a deed or conveyance of the lands, tenements, hereditaments and real estate so sold; which deed shall be as good and valid, and shall have the same force and effect, as if the sheriff, who made such sale, had signed, sealed, and delivered a deed of conveyance for the same in due form of law.

How to pay the money received thereon.

16. *And be it enacted*, That if such succeeding sheriff receive any money by virtue of the preceding section of this act, he shall pay the same to the person thereunto entitled by law.

Proprietary rights may be levied on and sold by executions.

17. *And be it enacted*, That all proprieties, rights, share and shares of propriety, and rights to unlocated lands, shall be, and hereby are made liable to be levied upon and sold by executions to be issued on judgments, for the payment of the debt, or damages, and costs, or sum of money thereby recovered, in the same manner as lands, tenements, hereditaments and real estate are made liable to be levied upon and sold by virtue of this act; but every such execution shall issue out of the supreme court; and if the said shares or rights be within the western division, shall be directed to the sheriff of the county of Burlington, and if within the eastern division, shall be directed to the sheriff of the county of Middlesex; and further, that the said sheriff shall give notice, by advertisements, signed by himself, and put up in five or more public places in the said county, and by an advertisement in one of the newspapers published in this state, of the time and place of exposing such shares or rights to sale, at least two months before the time appointed for selling the same.

18. *And be it enacted*, That no lands, tenements, heredita-

ments or real estate, of any testator or intestate, shall be sold or in any wise affected by any judgment or execution against executors or administrators.

1799.

Judgment or execution against executors or administrators not to affect lands of the testator or intestate.

19. *And be it enacted*, That when any executor or administrator shall discover or believe, that the personal estate of his testator or intestate is insufficient to pay his debts, then it shall be the duty of such executor or administrator, as soon as conveniently may be, to make and exhibit, under oath, a just and true account of the said personal estate and debts, as far as he can discover the same, to the orphans' court of the county, where the lands, tenements, hereditaments and real estate, of which the said testator or intestate died or shall die seized, do lie, and request their aid in the premises; and the said court shall thereupon make an order, directing all persons interested in such lands, tenements, hereditaments and real estate to appear before them at a certain day and place, in the said order to be mentioned, not less than two nor more than three months after the day of making such order, to shew cause, why so much of the said lands, tenements, hereditaments and real estate of the said testator or intestate should not be sold, as will be sufficient to pay his debts, or the residue thereof, as the case may require; which order, signed by the surrogate or clerk of the said court, shall be immediately thereafter set up at three of the most public places in the said county for six weeks successively, and be published for the same time in one or more of the newspapers printed in this state.

If the personal estate of the testator or intestate be insufficient to pay his debts, the executor or administrator may make application to the orphans' court; whose duty it shall be to order all persons interested to appear before them, on a certain day, to shew cause, why the real estate should not be sold.

20. *And be it enacted*, That the said orphans' court shall, at the time and place mentioned in the said order, or at such other time and place as they may then appoint, hear and examine the allegations and proofs of the said executor or administrator, and other persons interested; and if on full examination the said court shall find, that the personal estate of the said testator or intestate is not sufficient to pay his debts, the said court shall order and direct the executor or administrator to sell the whole, if necessary, of the lands, tenements, hereditaments and real estate of the said testator or intestate, for the payment of his debts, or so much thereof as will be sufficient for that purpose; and when a part only of the said lands, tenements, hereditaments and real estate is sufficient, such order shall specify the part to be sold: *Provided always*, That where any houses, and lots, or lands are so circumstanced, that a part thereof cannot be sold without manifest prejudice to the heirs or devisees, the said court may, at their discretion, order the whole or a greater part, than is necessary to pay such debts, to be sold; and the surplus money arising from such sale shall be distributed among the heirs or devisees, according to the law of descents in the former, and the will of the testator in the latter case; and further, that the heir or devisee, whose lands, tenements, hereditaments and real estate, so descending or devised to him, have been sold as aforesaid, for the payment of the debts of his intestate or testator, may compel all others claiming or holding under such intestate or testator, to contribute in proportion to their respective interests, so as to equalize the burden or loss.

If the personal estate be inadequate to pay the debts of the testator or intestate, the orphans' court may direct the real estate to be sold.

1799.

Lands, ordered to be sold by the orphans' court, to be advertised 2 months before the time of sale.

21. *And be it enacted*, That the executor, or administrator, who may be ordered to sell any lands, tenements, hereditaments or real estate of any testator or intestate, shall give notice by advertisements, signed by himself, and set up at five or more public places in the county, of the time and place of selling the premises, at least two months before the time appointed for selling them, and shall, at the time and place so appointed, between the hours of twelve and five in the afternoon, expose the said lands, tenements, hereditaments and real estate to sale by public vendue, and strike off the same to the highest bidder; and the executor or administrator, making the said sale, shall report in writing all proceedings thereon to the next orphans' court, after such sale: *Provided always*, That the said executor or administrator may adjourn the said sale from time to time, not exceeding two months in the whole.

For lands so sold, the executor or administrator to make deed.

22. *And be it enacted*, That the said executor or administrator shall, and hereby is authorized to make a deed to the purchaser for the lands, tenements, hereditaments and real estate so sold; which deed shall set forth the said order at large, and shall vest in the said purchaser as good and perfect an estate in the premises therein mentioned, as the heirs or devisees of the said testator or intestate were seized of or entitled to, at the time of the making of the said order by such orphans' court.

Moneys received by executor or administrator from sale of lands, to be assets for the payment of debts.

23. *And be it enacted*, That the moneys arising from such sale of the lands, tenements, hereditaments and real estate of such testator or intestate, shall be received by the said executor or administrator, and be considered as assets in his hands for the payment of debts, and the surplus, if any, shall be distributed among the heirs or devisees in the proportion and manner directed by the twentieth section of this act.

Lands of testator or intestate not to be sold till the personal estate be applied to the payment of debts.

24. *Provided always, and be it further enacted*, That no part of the lands, tenements, hereditaments and real estate of any testator or intestate, shall be ordered by the said orphans' court to be sold as aforesaid, until the executor or administrator shall have applied the personal estate, or such part thereof as may have come to his hands, towards payment of the debts of such testator or intestate; and no more of the said lands, tenements, hereditaments and real estate, except as is excepted in the twentieth section of this act, shall be sold, than may be necessary to pay the residue of the said debts: *Provided also*, That nothing herein contained shall prevent or bar any person from bringing and maintaining any action against an executor or administrator, for or in respect of the personal estate of his testator or intestate, or for or in respect of any waste or misapplication thereof by such executor or administrator.

This act not to prevent suits against executor or administrator for waste, &c.

Certain acts, &c. repealed.

25. *And be it enacted*, That the act, entitled "An act subjecting real estates in the province of New-Jersey to the payment of debts, and directing the sheriff in his proceedings thereon," passed the second day of December, in the year of our Lord, one thousand seven hundred and forty-three; and the act, entitled "An act to amend an act, entitled an act subjecting real estates in the province of New-Jersey to the payment of

1799.

debts, and directing the sheriff in his proceedings thereon," passed the eighth day of June, in the year of our Lord, one thousand seven hundred and seventy-nine; and the act, entitled "An act directing the mode by which shares of propriety and rights to unlocated lands in the state of New-Jersey, may be sold for the payment of debts," passed the twenty-third day of November, in the year of our Lord, one thousand seven hundred and eighty-five; and the eleventh and twelfth sections of the act, entitled "An act to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of this state," passed the sixteenth day of December, in the year of our Lord, one thousand seven hundred and eighty-four, and all and every other act and acts, and part and parts of any act, within the purview of this act, be, and they are hereby repealed; but such repeal shall not extend to or affect any execution heretofore issued, out of any of the courts of record in this state, against lands, tenements, hereditaments and real estate, or against proprietary shares and rights to unlocated lands, or any order heretofore made by any orphans' court for the sale of real estate; but such execution and order shall be of the same validity, and be proceeded upon to effect in the like manner, as if this act had not been made.

But such repeal not to affect antecedent executions and orders.

See supplement, passed 21st February, 1820.

AN ACT to issue commissions for the examination of witnesses, and to take their depositions in certain cases.

PAT. 374.

Passed the 18th of February, 1799.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That if a material witness in any action or suit in the court of chancery, or in the supreme court, or any of the inferior courts of common pleas of this state, reside out of this state, or, if in this state, be ancient or very infirm, or be sick, or bound on a voyage, or about to go out of this state, it shall and may be lawful for the said court, in which such action or suit is depending, on affidavit or proof thereof to the satisfaction of the said court, and upon motion made by or in behalf of either party in open court, and on such terms as the said court shall direct, to award and issue, under the seal of the said court, a commission to such person or persons, as the said court may think fit, authorizing such person or persons, or any two or more of such persons, to examine de bene esse the said witness on oath or affirmation, upon the interrogatories annexed to the said commission, and to reduce such examination to writing, and to return the same annexed to the said writ, unto the said court, with all convenient speed; and the name of every witness, to be so examined by virtue of such commission, shall be inserted in the said commission; and the interrogatories for the examination of such wit-

In what cases the courts may grant commissions to examine material witnesses.

1799.

ness shall be drawn and signed by the parties or their counsel in the cause in which the testimony is to be used, or such of them as shall request the said commission, and be approved of by the said court, or one of the judges thereof, and shall be annexed to the same commission; and each party shall be at liberty, with the approbation of the said court or judge, to insert in the said interrogatories such questions, as he or she may think proper or necessary.

In what manner the commissioners are to proceed in the examination, and to make return of the commission.

2. *And be it enacted*, That the said commissioner or commissioners, or any two or more of them, shall and may, on oath or affirmation, examine every witness named in the said commission, or such as can be met with, and cause the examination of the said witness to be reduced to writing, and signed by such witness, and the said commissioner or commissioners shall then also sign the same, and such examination, and all exhibits produced to the said commissioner or commissioners, and proved by such witness, shall be annexed to the said commission, and returned to the court out of which such commission issued, closed up, and under the hand and seal of the said commissioner, or the hands and seals of two or more of the said commissioners; and if it be not convenient for the said commissioner, or for any of the said commissioners, to carry the same to the chancellor, or one of the judges of the said court, then he may deliver the same to the agent or attorney of the party, on whose behalf such witness is examined; and such agent or attorney, or in case of his death, the person into whose hands the same shall come, shall deliver or transmit the same to the chancellor, or one of the judges of the said court, making oath or affidavit before a judge or justice of the peace, or other competent authority, that he received the same from the hands of the said commissioner, or one of them, (or if the agent or attorney be dead, then such affidavit shall set forth in what manner the same came into the hands of the person, who shall so deliver or transmit the same) and that the same has not been opened or altered since he so received it; and the said chancellor or judge shall then open the same, and endorse on the commission, from and by whom he received the same, and subscribe his name to the said endorsement, and shall then deposit the said commission and return, with the said affidavit, in the office of the clerk of the said court, there to remain as a record.

The commission, so returned, to be filed in the clerk's office.

Parties entitled to take copies of depositions.

3. *And be it enacted*, That the parties in the said action or suit shall be entitled to take copies of such deposition, at their respective costs and charges, as soon as the same is deposited in the clerk's office.

Court may proceed, if commission be not returned in a reasonable time.

4. *And be it enacted*, That if the said commission be not returned, within such reasonable time, as the said court shall from time to time allow for that purpose, then the said court may proceed in the said action or suit, as if no such commission had been awarded or issued.

In what cases and manner depositions de bene esse may be taken.

5. *And be it enacted*, That if a material witness in an action or suit, in any of the aforementioned courts, be in this state, but is ancient, or very infirm, or is sick, or is bound on a voyage, or is

about to go out of this state, then the deposition of such witness may, at the option of either party, and in lieu of the commission aforesaid, be taken de bene esse before the chief justice, or any of the justices of the supreme court of this state, or any judge of the inferior court of common pleas in the same: *Provided, That* the magistrate, before whom the deposition is to be taken, shall cause notice to be given to the adverse party immediately, or at such short day as the case, in the opinion of the said magistrate, may require, to attend and be present at the taking thereof, and to put questions, and to cross-examine, if he shall think fit.

1799.

6. *And be it enacted,* That every person, deposing as last aforesaid, shall be carefully examined and cautioned, and sworn or affirmed to testify the whole truth, and shall subscribe the testimony by him or her given, after the same shall be reduced to writing, which shall be done only by the magistrate taking the deposition, or by the deponent in his presence. And the deposition, so taken, shall be retained by such magistrate, until he deliver the same with his own hand into the court, for which it is taken, or shall, together with a certificate of the reasons as aforesaid of its being taken, and of the notice, if any, given to the adverse party, be by him, the said magistrate, sealed up, directed and transmitted to such court, and remain under his seal until opened in court; and, when so opened, the same shall be deposited in the office of the clerk of the said court, there to remain as a record.

Witness to sign deposition, which the magistrate, before whom it is taken, shall seal up, direct, and deliver or transmit to the court.

7. *And be it enacted,* That either party in the said action or suit may, at his or her costs and charges, take copies of such deposition, as soon as it is deposited in the office aforesaid.

Parties entitled to copies of such deposition.

8. *And be it enacted,* That any material witness of the description aforesaid, and being in this state, may be compelled to appear, and be examined, and depose before any commissioner or commissioners, as aforesaid, in this state, or any of the said magistrates, in the same manner and under the same penalties as to appear and testify in the court wherein the said action or suit is depending.

Witness may be compelled to appear and depose.

9. *And be it enacted,* That every examination or deposition, so taken and returned by virtue of this act, shall be read, used and deemed as good and competent evidence in the cause, in which it shall be taken, as if such witness had been present, and sworn or affirmed, and examined viva voce, in open court, on the hearing or trial thereof, if it appear to the satisfaction of the said court, that such witness reside, or is gone out of this state, or is dead, or by reason of age, sickness or bodily infirmity, is unable to travel and attend the said court, but not otherwise. And unless the same shall be made to appear to the said court, on the hearing or trial of the said cause, then such examination or deposition shall not be admitted or used in the said cause.

Every examination or deposition, so taken and returned, shall be read in evidence, if the witness cannot attend.

10. *And be it enacted,* That every witness, who is in this state, and whose examination or deposition is taken as aforesaid, shall be allowed, by way of compensation for his time and attendance therein, after the same rate as if he had personally appeared and

Fees of witness, who shall make deposition, what, and by whom to be paid.

1799.

given testimony in the cause, before the court in which it is depending; and the party requiring such examination or deposition, shall be at the sole expense thereof, and shall not have any allowance for the same, in the taxation of costs.

See supplement, 29th November, 1809.

PAT. 376.

AN ACT prescribing certain oaths.

Passed the 20th of February, 1799.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That every person, who is or shall be required by law, to give assurance of fidelity and attachment to the government of this state, shall take the following oath:

Form of the oath of allegiance.

I, do sincerely profess and swear, that I do and will bear true faith and allegiance to the government established in this state, under the authority of the people. So help me God.

What officers and persons are required to take the same.

2. *And be it enacted,* That the governor, for the time being, of this state, and every person who shall be appointed or elected to any office, legislative, executive, or judicial, under the authority of this state, or to any office in the militia thereof, and every counsellor, solicitor and attorney at law, shall, before he enters upon the execution of his trust, office, or duty, take and subscribe the foregoing oath of allegiance.

3. *And be it enacted,* That every person, who shall be elected governor of this state, or who shall at any time administer the government thereof, shall, before he enters upon the execution of his said office, take and subscribe the following oath, to wit:

Official oath of the governor.

I, elected governor of the state of New-Jersey, do solemnly promise and swear, that I will diligently, faithfully, and to the best of my knowledge, execute the said office, in conformity with the powers delegated to me; and that I will, to the utmost of my skill and ability, promote the peace and prosperity, and maintain the lawful rights of the said state. So help me God.

4. *And be it enacted,* That the members of the court of appeals in the last resort in all causes of law, the chancellor, the judges of the supreme court, and the judges of the inferior court of common pleas, and orphans' court, shall, before they enter upon the execution of their respective offices, take and subscribe the following oath, to wit:

Oath of the chancellor and judges.

I, do solemnly promise and swear, that I will administer justice without respect to persons, and faithfully and impartially perform all the duties incumbent on me as according to the best of my abilities and understanding, agreeably to the constitution and laws of the state of New-Jersey. So help me God.

Oath of registers, or clerks of courts.

5. *And be it enacted,* That every person, who shall be chosen or appointed to the office of register, or clerk of any judicial court

of this state, shall, before he enters upon the execution of his office, take and subscribe the following oath, to wit:

1799.

I, being appointed register (or clerk, as the case may be) of the do solemnly promise and swear, that I will truly and faithfully enter and record all the orders, decrees, judgments, and proceedings of the said court; that I will justly and honestly keep the records, parchments, papers, writings, and books to me committed, and to be committed, by virtue of my said office; and that I will faithfully and impartially perform all the duties of the said office, according to the best of my abilities and understanding. So help me God.

6. *And be it enacted*, That every counsellor, solicitor, or attorney at law, shall, before he be permitted to practice in any court of this state, take and subscribe, in open court, the following oath, to wit:

I, do solemnly promise and swear, that I will faithfully and honestly demean myself in the practice of an attorney (or of a counsellor, or solicitor, as the case may be) and will execute my office according to the best of my abilities and understanding. So help me God.

Oath of counsellors, solicitors, and attorneys at law.

7. *And be it enacted*, That where the form of an official oath is not or shall not be specially prescribed, then one shall be taken in the following words, to wit:

I, do solemnly promise and swear, that I will faithfully, impartially, and justly perform all the duties of the office of according to the best of my abilities and understanding. So help me God.

Oath of office, where no one is specially prescribed.

8. *And be it enacted*, That any member of the legislative council shall be, and hereby is authorized to administer the oaths of office and allegiance to the person, who shall be elected governor of this state; which oaths shall be administered in council, if the legislature be in session.

Oaths to be administered to the governor, by any member of the legislative council.

9. *And be it enacted*, That any member of the legislative council or of the general assembly shall be, and hereby is empowered to administer the oath of allegiance to his fellow members of the same house.

Oath of allegiance, by whom to be administered to the members of the legislature.

10. *And be it enacted*, That the supreme court and each judge thereof shall be, and hereby is authorized to administer the oath of office and of allegiance to any person, who shall be elected or appointed to the office of chancellor, or secretary, or attorney-general of the state, or judge, or clerk of the said supreme court.

By whom the oaths shall be administered to the chancellor, judge, &c.

11. *And be it enacted*, That it shall be the duty of the clerk for the time being, of the inferior court of common pleas of each county in this state, and of none other, to administer the oaths of office and allegiance to every person, who shall be chosen or appointed a judge of the said court, or a justice of the peace, sheriff, or coroner in and for the said county.

Clerk of the common pleas to administer the oaths to the judges of the common pleas, &c.

12. *And be it enacted*, That it shall be the duty of the said clerk to enrol the name of every person, to whom he shall administer the said oaths, together with the time of administering

The said clerk to enrol the names of such officers, and to

1799.

transmit a copy thereof to the secretary of state.

If the clerk of common pleas be absent, &c. then any judge of such court may administer the oaths of office and allegiance.

Any judge of the court of common pleas to administer the oaths of office and allegiance to the clerk of such court.

Penalty on clerks for neglect of duty.

Courts to administer the oath of allegiance where necessary.

The authority administering the official oath, to administer the oath of allegiance also.

The judges of the pleas and justices of the peace may administer the oath of allegiance, where no oath of office is required.

Penalty on grand and petit jurors refusing to take the oath of allegiance.

the same, on paper or parchment, to be by him for that purpose kept, and filed in his office, and to transmit, at or before the next session of the legislature, the name of the person so sworn, and the time, to the secretary of the state, to be by him laid before the then next joint-meeting of the council and assembly.

13. *And be it enacted*, That if the clerk of the court of common pleas be absent, removed, or dead, then it shall and may be lawful for any judge of the said court to administer the oaths of office and allegiance to the persons, or any of them, required to take the same in and by the eleventh section of this act; and the said judge shall report the name of the person, to whom the said oaths were administered, and the date thereof, to the said clerk or his successor, who shall enrol the same, and transmit a copy of such enrolment to the secretary of the state, as is directed by the section next preceding.

14. *And be it enacted*, That any judge of the inferior court of common pleas shall be, and hereby is authorized to administer the oaths of office and allegiance to the person, who shall be chosen or appointed clerk of the said court; and it shall thereupon be the duty of the said clerk, to enrol his own name and the time of his being sworn into office, and transmit as aforesaid a copy of such enrolment to the secretary of state for the purpose above mentioned.

15. *And be it enacted*, That if the clerk of any inferior court of common pleas shall neglect or refuse to perform, in due time, any service or duty enjoined on him by this act, he shall, for every such offence, forfeit thirty dollars, to be recovered by action of debt, with costs, by any person who will sue for the same.

16. *And be it enacted*, That it shall be the duty of any court of judicature of this state to administer the oath of allegiance to such person, as shall be by law required to take the same in the said court.

17. *And be it enacted*, That it shall be lawful for every court, body corporate, judge, justice of the peace, or other person or persons, before whom it is or shall be incumbent for any person, who shall be elected or appointed to office, to take his official oath, to administer at the same time the oath of allegiance to such person, if he is or shall be by law required to take the same.

18. *And be it enacted*, That where the oath of allegiance is or shall be required by law, without any official or other oath, then it shall be lawful for any judge of the inferior court of common pleas, or any justice of the peace, in and for his proper county, to administer the same, unless it is or shall be otherwise directed by this or any other act: *And further*, The said judge and justice are hereby respectively empowered and required to administer the oath of allegiance to any person, who shall apply to take the same.

19. *And be it enacted*, That if any grand or petit juror, who hath not already taken and subscribed the oath of allegiance to this state, shall refuse, if required by the court, to take and subscribe the oath of allegiance, prescribed by this act, in any court.

to which he shall be summoned, he shall, for every such offence, be fined by the said court, in any sum not less than eight nor more than thirty dollars; and the clerk of the said court shall deliver a certified list of the name of the juror and the fine awarded to the sheriff of the county, who shall thereupon levy and make the same, by distress and sale of such juror's goods, with costs.

1799.

Such penalty to be recovered by distress and sale.

20. Repealed by act, 13th June, 1820.

21. *And be it enacted*, That if any person, who shall be elected to any office by the council and assembly in joint-meeting, shall neglect or refuse to qualify into such office, for and during the space of two months, after being informed of his election by any member of the council or assembly for the county, in which he resides, or by the clerk of the court of common pleas of such county, his said election shall thenceforth be void.

Officers, elected by joint-meeting, to qualify in two months, or election to be void.

22. *And be it enacted*, That all and every act, and part and parts of any act, within the purview of this act, be, and they are hereby repealed.

Former acts repealed.

AN ACT for the establishment of work-houses in the several counties in this state.

PAT. 378.

Passed the 20th of February, 1799.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the board of chosen freeholders of every county in this state are hereby authorized, whenever they may think proper, to build or purchase a work-house, at such place in the county, as the said corporation shall think fit.

The board of chosen freeholders authorized to build or purchase a work-house.

2. *And be it enacted*, That the said work-house shall be under the direction, superintendence, and government of the said corporation, who are hereby authorized to appoint and hire some fit person to be master of the said work-house, and other officers and servants, if necessary, and to make such regulations, ordinances and by-laws, relative to the well ordering and governing the said work-house, and keeping the persons confined therein to labor, and the manner of their being confined, and relative to the due execution of this act, as they shall from time to time deem necessary or convenient; provided the same be not contrary to the constitution or laws of this state.

The said board to have the government of such work-house.

3. *And be it enacted*, That every person, sentenced to hard labor and imprisonment, according to the act for the punishment of crimes or other law, for any time not exceeding six months, shall, by the sheriff or other proper officer of the county, in which the conviction was had, be delivered to the master of the work-house, together with a copy of the sentence of the court, certified under the hand and seal of the clerk of the said court, or an order under the hand and seal of one or more of the justices of the peace of the said county, by whom the said sentence may be imposed, and shall be there received and safely

Persons sentenced to hard labor and imprisonment, for any time not exceeding six months, to be sent to the work-house.

1799.

kept to hard labor by the said master, agreeably to such sentence, and if he be fined, as well as sentenced to hard labor, then also to be kept to such labor, until he pay the said fine, and likewise the costs of prosecution in the former, as well as in the latter instance, or be discharged by due course of law. But this section shall not extend to any offender, whose sentence shall be imprisonment, or the payment of a fine, or imprisonment and the payment of a fine, without the addition of hard labor in either case.

Money, how to be raised for the purchasing of materials for the employment of persons sent to work-houses.

4. *And be it enacted*, That all disorderly persons and others, who are or shall be ordered by law to be sent to such work-house, shall be kept therein, at the charge and expense of the county, unless otherwise directed by law; and the said corporation are hereby empowered to procure suitable articles, materials and things for their labor, work and employment; and the money, necessary to be expended for the purposes specified in this act, shall be granted and raised by the order of the said corporation, in the like manner as money for other county purposes is directed to be granted, assessed, collected, and raised in and by the act, entitled "An act to incorporate the chosen freeholders in the respective counties of the state."

What slaves and servants may be sent to the work-house.

5. *And be it enacted*, That it shall be lawful for any justice of the peace to commit to the said work-house, to hard labor, any stubborn, disobedient, rude or intemperate slave or male servant, on complaint of his or her master or mistress; and also, after due investigation of such complaint, to order such person to be punished, by such confinement and labor, as the said justice shall think reasonable.

Masters to pay for the materials for them to work, and also for their diet

6. *And be it enacted*, That when any servant or slave of the description specified in the preceding section, shall be sent to such work-house, the master or mistress shall pay for the food and diet of his or her servant or slave such reasonable compensation as the said corporation shall fix.

Duties of the masters of work-houses.

7. *And be it enacted*, That the master of such work-house shall receive all such disorderly persons and others aforesaid, as shall be legally sent to him, and shall keep them to such work and labor as they are capable of and able to perform, during their continuance in the said house; and if they are guilty of indecent language or behaviour, or of profane cursing or swearing, or are disobedient, stubborn, rude, refractory or abusive, or are negligent or idle, or do not perform their task properly and in good condition, or wilfully mismanage their work, or destroy or injure the materials provided for them, then the said master is hereby authorized and required to punish them, by abridging them of their food and diet, as the case may require, until they be reduced to obedience, submission and order.

Persons escaping, how to be further punished.

8. *And be it enacted*, That if any person committed to the said work-house, shall unlawfully abscond, or make his escape, or depart therefrom, then such person, on being returned to the said work-house, shall be punished by imprisonment, at hard labor, for double the time, which may remain unexpired of the

original sentence, or by abridging him or her of his or her food and diet, in such manner as the board of chosen freeholders may direct by the rules and regulations, which may be established for the government of the said work-house.

1799.

9. *And be it enacted*, That the master of every such work-house shall keep an exact account of the time of the commitment and liberation of the said offenders, of their maintenance, of the articles and materials provided for them to work, and of the earnings and proceeds of their labor, and present the same to the said corporation, at their annual meeting, and also whenever he shall by them be thereunto required: *And further*, That he shall pay the amount of such earnings and proceeds to the said corporation, at the time of exhibiting his accounts as aforesaid; which said earnings and proceeds shall be appropriated by the corporation to the uses of such county.

The master of every work-house to keep an account of the maintenance, labor, &c. of offenders, and present the same to the corporation.

10. *And be it enacted*, That if the master of such work-house neglect or refuse to account and pay as aforesaid, or neglect or refuse to perform any of the duties required of him by this or any other law, he shall, for every offence, forfeit fifty dollars, to be recovered, with costs, by action of debt, in any court having cognizance of the same, in the name and for the use of the said corporation.

Penalty on the master of the work-house for neglecting or refusing to account, or do his duty.

11. *And be it enacted*, That the boards of chosen freeholders of any two or more counties, are hereby authorized to unite in building or purchasing a work-house, in common for the said counties, at such place as they shall agree upon; which shall be under the joint direction, superintendence and government of the said corporations, who shall have the powers and do the duties herein before given to and enjoined upon any of the said boards; and the moneys, necessary for the said purposes, shall be apportioned between the said counties in such manner as the said corporations shall fix upon; and the sums, so fixed, to be paid by each county, shall be granted and raised, in the same manner as money for other county purposes is directed to be granted, assessed, collected and raised, by the act to incorporate the chosen freeholders in the respective counties of the state.

Two or more counties may unite in building or purchasing a work-house.

12. *And be it enacted*, That the court, justices of the peace, and other competent authority of that county, uniting to build or purchase as aforesaid, wherein such work-house happens not to be, shall have as full power to send and commit any person to the said house, as the said court, justices of the peace or other competent authority would by law have, if the said house were within the county to which they belong.

The courts and other authority of both counties may commit persons to such work-house.

13. *And be it enacted*, That the master of the work-house, so built or purchased by two or more of the said corporations, shall do the like services and duties, and be under the like regulations and penalties, as are herein before directed and enjoined upon the masters of other work-houses.

The duties of the master of such work-house.

1799.

AN ACT regulating the money of account in this state.

PAT. 380.

Passed the 21st of February, 1799.

Money of account to be expressed in dollars, dismes cents and milles.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the fourth day of July next, the money of account of this state shall be expressed in dollars or units, dismes or tenths, cents or hundredths, and milles or thousandths; a disme being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mille the thousandth part of a dollar; and that all accounts in the treasury of this state, all accounts in the treasuries of the different counties of this state, all assessment rolls and duplicates, and all decrees, verdicts, judgments, and executions, in the courts of justice of this state, from and after the said fourth day of July next, shall be made, kept, entered, and expressed in conformity to this act, and not otherwise.

PAT. 381.

AN ACT to ascertain the toll of millers.

Passed the 25th of May, 1799.

Toll allowed to millers.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That every miller shall be allowed, for toll, one tenth part of a bushel, and no more, out of every bushel of grain, which he shall grind, including bolting; except malt, out of each bushel of which he shall be allowed one quart, and no more.

Penalty for taking unlawful toll.

3. And be it enacted, That if any miller shall take or receive a greater toll for grinding than is allowed by this act, he shall, for every such offence, forfeit and pay three dollars, to be recovered by action of debt, with costs, by any person, who shall sue for the same.

Millers to keep toll measures.

3. And be it enacted, That every miller shall keep in his mill an exact measure of one tenth part of a bushel, and of one twentieth part of a bushel, for his toll measures, with a fit instrument to strike the said measures, which shall be stricken whenever toll is taken; and if he fail in any of these particulars, he shall forfeit and pay three dollars, to be recovered as aforesaid.

PAT. 381.

AN ACT to register births and deaths, when required.

Passed the 27th of May, 1799.

Town-clerk to provide a book to register births and deaths.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the clerk of every township shall provide, at the expense of the township, a book for the purpose of registering births and deaths, when required so to do, in the manner herein after mentioned.

2. *And be it enacted*, That the parent or parents of every child hereafter born, and the executors or administrators, or next of kin in this state, of every person who shall hereafter die, may, within three years after the birth of such child, or death of such person, apply to the clerk of the township, in which such birth or death shall have happened, to have the same registered according to the directions of this act; and on proof being made of such birth or death, within the said three years, in the manner herein after mentioned, the said clerk shall, and he is hereby required to enter in the said book the name of such child, the time and place of his or her birth, and the name of his or her parent or parents, and in case of death, the name of the person, who shall have departed this life, and the time and place of such person's death.

1799.

Within what time, and by whom, application may be made for registering a birth or death.

Mode of registering.

3. *And be it enacted*, That the proof of a birth shall be by a certificate, which shall contain the name of the child, and of his or her parent or parents, and the time and place of his or her birth, the truth of which certificate shall be sworn or affirmed to by the parents of such child, or one of them, or by some person present at the birth.

Proof of birth, how to be made.

4. *And be it enacted*, That the proof of a death shall be by a certificate, which shall contain the name of the person deceased, and the time and place of his or her death; the truth of which certificate shall be sworn or affirmed to by a witness, who was present at the death of such person, or actually saw such person dead.

Proof of death, how to be made.

5. *And be it enacted*, That every justice of the peace of the county, where such birth or death shall happen, is hereby authorized to administer the said oath or affirmation; and the said certificate, so sworn or affirmed to, shall be filed by the clerk of the township, whose fees shall be twelve cents for registering each birth or death, and six cents for filing each certificate.

Proofs, before whom to be made.

Clerk's fees.

6. *And be it enacted*, That the said books or registers of births and deaths, and other books heretofore kept for the same purposes agreeably to law, shall be admitted in evidence in every court of this state.

Books to be evidence..

7. *And be it enacted*, That if the said clerk shall not, within two weeks after such application and certificate to him made and produced as aforesaid, and the fees aforesaid tendered to him, enter or register in the form and book aforesaid any such birth or death, he shall forfeit four dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same.

Penalty on clerk for not registering births and deaths in due time.

8. *And be it enacted*, That if any person shall wilfully, knowingly, and falsely swear or affirm to any certificate of such birth or death, or if any clerk shall wilfully and knowingly make in the said book a false entry of such birth or death; then the said person or clerk, so offending, shall be adjudged to be guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment or both, or by fine or imprisonment at hard labor, or both, at the discretion of the court, the fine not to exceed eight hundred dollars, and the imprisonment not to exceed seven years.

Punishment for false swearing to certificate, and for false entry of birth or death.

1790.

Former act repealed.

9. *And be it enacted*, That the act, entitled "An act for the registering of marriages, births, and deaths, where the parties, or their relatives, may require the same," passed the eighth day of November, in the year of our Lord, one thousand seven hundred and ninety, be, and is hereby repealed.

PAT. 382.

AN ACT relative to the college of New-Jersey.

Passed the 27th of May, 1799.

Preamble.

WHEREAS it appears, that George the second, king of Great-Britain, by his charter of incorporation, bearing date the fourteenth day of September, in the year of our Lord, one thousand seven hundred and forty eight, did incorporate sundry persons, to the number of twenty-three, by the name of "The trustees of the college of New-Jersey;" and did thereby, among other things, grant unto them power and authority to erect, endow, and govern a college for the instruction of youth in the learned languages, and liberal arts and sciences; as by the said charter of incorporation, recorded in the secretary's office in book C, number 2, pages 196 to 204 inclusive, reference being thereunto had, may more fully appear: and whereas it is proper, that the said charter, with certain alterations and amendments, should be established and confirmed under the present government; THEREFORE—

The charter of the college of New-Jersey confirmed, with certain alterations and amendments.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the said charter, with the advantages, privileges, and immunities, and all other matters and things therein contained, such clauses and parts only excepted as are by this act repealed, altered, or amended, is hereby established and confirmed; and shall for ever hereafter be held and esteemed as good and effectual in law, to all intents, constructions and purposes, as the same hath heretofore been held and esteemed, and as if the same were herein particularly recited, any misuser, nonuser or other default heretofore committed or suffered notwithstanding.

The former privileges of the corporation confirmed.

2. *And be it enacted*, That the said trustees of the college of New-Jersey, and their successors, shall and may have, hold and enjoy all the advantages, privileges and immunities, granted in the said charter, and hereby confirmed unto them and their successors, in as full, ample and beneficial a manner as if the same were given and granted by a law of this state, and as if the said advantages, privileges and immunities were, in the said law, particularly specified and enumerated, any law, usage or custom relating to charters notwithstanding.

A certain clause in the charter revoked.

3. *And be it enacted*, That the clause in the said charter, requiring every trustee and officer of the said corporation to take and subscribe the oaths and declarations established by certain statutes of Great-Britain, be, and it hereby is revoked and annulled.

4. *And be it enacted*, That if any person, being an inhabitant of this state, shall be elected a trustee or officer of the said corporation, he shall, before he enters upon the duties of his office, take and subscribe the oath to support the constitution of the United States, and the oath of allegiance to this state prescribed by law; which oath any member of the said corporation is hereby authorized to administer; and if any person, being an inhabitant of any other of the United States, shall be elected a trustee or officer of the said corporation, he shall, before he enters upon the duties of his office, produce a certificate from some justice of the peace of the state, in which he resides, setting forth, that he hath taken the oath to support the constitution of the United States, and the oath of allegiance to the said state: *And further*, That it shall be lawful for any member of the said corporation to administer the oath of office to the person so elected.

1799.

Oaths to be taken by the trustees and officers of the corporation.

5. *And whereas* the said corporation have represented, that, by their charter, thirteen members are requisite to constitute a quorum, to the great injury of the institution and their trust, by reason of the non-attendance of members, who live at a distance, and have prayed, that the said quorum may be lessened: *Be it therefore enacted*, That any nine or more of the trustees of the said college, when duly convened, shall constitute a quorum, and be competent to perform and execute all the duties, business, matters and things of the said corporation, as fully and effectually as if thirteen of them had so convened, and shall have the like powers, authorities and interests, as, by the said charter, are given to and vested in thirteen of the said trustees, or members, when duly convened, and shall be under the same directions, regulations, conditions, restrictions, provisos and limitations, as to the benefit, conveniency, and meetings of the said corporation, as are contained in the said charter, with respect to the quorum of thirteen trustees or members. *Provided always*, That the governor of this state for the time being, or in case of his death or absence, the president of the said college for the time being, and in case of the death or absence of both the said governor and president, then the senior trustee of the said college, shall always be one of the said nine trustees, so at any time constituting a quorum as aforesaid.

Nine or more of the trustees to constitute a quorum, of which the governor, president, or senior trustee shall be one.

6. *And be it enacted*, That the said trustees of the college of New-Jersey, and their successors, may have, hold and enjoy any estate whatsoever, the clear yearly value whereof shall not exceed twenty thousand dollars.

To what amount the corporation may hold property.

7. *And be it enacted*, That the act, entitled "An act for amending and establishing the charter of the college of New-Jersey," passed the thirteenth day of March, in the year of our Lord, one thousand seven hundred and eighty; and the act, entitled "An act to continue an act, entitled a supplemental act to an act, entitled an act for amending and establishing the charter of the college of New-Jersey," passed the twentieth day of November, in the year of our Lord, one thousand seven hundred and eighty-six, be, and they are hereby repealed.

Certain acts repealed.

1799.

PAT. 394.

AN ACT to alter part of the public road in the township of Greenwich, in the county of Gloucester, leading from Woodbury to Salem.

Passed the 30th of May, 1799.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That so much of the road, called Salem road, as runs through the tract of land belonging to Thomas Clark, be, and the same is hereby vacated and made void: *Provided nevertheless, and it is further enacted,* That a road six rods in width, beginning in the middle of the said Salem road, between the said Thomas Clark's house and Samuel Mickle's house, and thence running along the line between said Samuel Mickle's land and said Thomas Clark's land, south, fifty-three degrees and thirty minutes west, forty-four chains and twenty links, to the middle of said Salem road at Samuel Tomkin's line, shall be, and the same is hereby established as a public highway, in the place and stead of the road hereby vacated and made void.

PAT. 384.

AN ACT relative to Queen's college.

Passed the 31st of May, 1799.

Preamble.

WHEREAS William Franklin, esquire, late governor of the then province of New-Jersey, by his charter, bearing date the twentieth day of March, in the year of our Lord, one thousand seven hundred and seventy, did establish a college, by the name of Queen's college, in the said province; and whereas the trustees of the said college have, by their petition, prayed that the said charter, with certain alterations and amendments, may be confirmed: THEREFORE—

Oaths to be taken by the trustees.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the oath to support the constitution of the United States, and the oath of allegiance to this state, as by law prescribed, be substituted in the place of the oaths required by the said charter.

Notice of their meeting, how to be published.

2. And be it enacted, That the notice of the meetings of the trustees of the said college be given in any newspaper published in the state of New-Jersey or of New-York, instead of New-York only.

Certain restrictions taken off.

3. And be it enacted, That such parts of the said charter as restrict those ordained ministers of the gospel, at any time elected trustees, not to exceed one-third of the whole, and as direct, that the governor of the colony for the time being, and, in his absence, the president of the council, and, in his absence, the chief justice, and, in his absence, the attorney-general, shall be president of the trustees at their first and every meeting, be, and are hereby revoked and annulled; and that the governor of this

state for the time being, shall, when attending, be president of the said trustees, at their meetings. 1799.

4. *And be it enacted*, That the powers of granting degrees, vested in the president of the said college, by and with the consent of a majority of the said trustees, established as a quorum in the said charter, be, and they hereby are extended to the conferring of any degrees granted by any other college or university. Power of granting degrees extended.

5. *And be it enacted*, That the said charter, with the before-mentioned alterations and amendments, be, and the same hereby is ratified and confirmed. Confirmation of charter so altered and amended.

6. *And be it enacted*, That the act, entitled "An act to alter, amend, and confirm the charter of Queen's college, in New-Jersey," passed the fifth day of June, in the year of our Lord, one thousand, seven hundred and eighty one, be, and the same is hereby repealed. Former act repealed.

AN ACT directing the clerks of courts to make return to the treasurer, of amercements, fines, and forfeitures. PAT. 386.

Passed the 31st of May, 1799.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That it shall be the duty of the clerk of every court of this state to make out, within ten days after the session or term of the said court, a true abstract from the minutes of all fines and amercements awarded, and the amount of all judgments entered on forfeited recognizances, for the use of the state, during the said session or term; and to transmit the same to the treasurer of this state on or before the first day of November, annually; which abstract shall contain the names of the persons fined and amerced, and against whom judgment as aforesaid has been entered, and also the names of the sheriff and collector of the county for the time being. Clerks of courts, to transmit, annually, abstracts of fines, &c. to the treasurer of the state.

2. *And be it enacted*, That if any clerk shall refuse or neglect to transmit such abstract to the treasurer at or before the time hereby appointed, he shall, for every offence, forfeit and pay one hundred dollars, to be recovered by action of debt, with costs, in the name of the secretary of this state, for the use of the state. Penalty on clerks for neglect, and how to be recovered.

3. *And be it enacted*, That it shall be the duty of the treasurer, within two days after the first day of November, annually, to make out and return the name of every delinquent clerk to the secretary, who, upon receipt thereof, shall prosecute such clerk for the recovery of the said penalty. Treasurer to return the names of delinquent clerks to the secretary, for prosecution.

4. *And be it enacted*, That every act and part of any act, within the purview of this act, be, and they are hereby repealed.

1799.

AN ACT concerning rams.

PAT. 390.

Passed the 31st of May, 1799.

Rams not to run at large from the twentieth of August till the first of November.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That, from and after the twentieth day of August until the first day of November, in every year, no ram shall be permitted to go at large out of the enclosure of his owner; but every ram shall, during the said period, be confined and kept within some enclosed pasture field or ground, secured by a fence so close and high, as not to admit sheep to pass the same.

Rams going at large, or trespassing, during the above period, may be castrated or impounded.

2. *And be it enacted,* That if, during the said period, any ram shall go over or break through the fence or enclosure of his owner, or shall trespass upon the enclosure of any other person, or shall run at large out of such enclosed pasture field or ground of the owner, it shall and may be lawful for any person to take the said ram and castrate him; or such person may impound the said ram, for which the owner shall pay fifty cents.

Former act repealed.

3. *And be it enacted,* That the act, entitled "An act to prevent rams from running at large at certain seasons of the year," passed the sixth day of December, in the year of our Lord, one thousand, seven hundred and seventy-five, be, and the same is hereby repealed.

PAT. 390.

AN ACT to regulate the fisheries in Raritan river, and to repeal a certain act therein mentioned.

Passed the 1st of June, 1799.

Penalty for fixing fish-wears, &c. across Raritan river, within certain limits.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That from and after the passing of this act, it shall not be lawful for any person to erect, fasten or fix any fish-wear, hoop-net, seine or other device for the purpose of catching fish, across any part of Raritan river, between the mouth thereof and the first mill-dams now erected across Millstone, and the north and south branches of Raritan river. And if any person shall offend against this act, he or she shall forfeit and pay, for every such offence, the sum of ten dollars, to be sued for and recovered, in the name of any person, who shall make complaint thereof, and when recovered, to be applied, the one half to the overseers of the poor of the township, where the said offence shall be committed, for the use of the poor of the said township, and the other half to the person, who shall sue for the same: *Provided,* That nothing herein contained shall be construed to extend to any person or persons whatsoever, who shall fasten any hoop-net or nets in the said river, adjoining either of the shores thereof, between the mouth of the same and a wharf on the south side of the aforesaid river, near the city of New-Brunswick, known by the name of the New Dock.

2. *And be it enacted*, That the act, entitled "An act to regulate the fishery within that part of the eastern division of this colony, from the mouth of Raritan river northward," passed the tenth day of May, in the year of our Lord, one thousand seven hundred and sixty-eight, be, and the same is hereby repealed.

1799.

Former act repealed.

AN ACT relative to the supreme and circuit courts.

PAT. 393.

Passed the 6th of June, 1799.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the supreme court of this state shall consist of a chief justice and *three** associate justices, and shall hold, annually, at Trenton, four terms, commencing the last Tuesday of February, the second Tuesday of May, the first Tuesday of September, and the second Tuesday of November.

Supreme court to consist of four judges, and to hold, annually, four terms, at Trenton.

* Two, by act of March 10, 1806.

2. *And be it enacted*, That the said supreme court may be held by the chief justice, or any one of the said justices; and that every day of the said term, except Sunday, shall be a return day.

One judge to be a quorum, and every day of term to be a return day.

3. *And be it enacted*, That every issue, which hath been or shall be joined in the supreme court, or any other court, and brought into the supreme court to be tried, and which is or may be triable by the country, shall be tried in the county, where the lands, tenements or hereditaments in question are situate, or the cause of action or offence hath arisen or been committed, or shall arise or be committed; unless the supreme court, upon motion in behalf of this state, if the state be interested, or upon motion of either party in the action, shall think proper to order the trial to be at the bar of the said supreme court, which shall only be done, where the matter or property in dispute shall be of the value of three thousand dollars; and if the party, who shall obtain a rule for a trial at bar, shall not recover to the amount of the said sum, he shall be entitled to no more costs, than if the cause had been tried at the circuit court of the proper county.

Issues in the supreme court to be tried in the proper counties; unless a trial at bar be ordered.

4. *And be it enacted*, That an action merely transitory shall, at the discretion of the court, be tried in the county, in which the cause of action arose, or the plaintiff or defendant reside at the time of instituting such action, or, if the defendant be not an inhabitant of this state, in the county, in which process shall have been served upon him.

Transitory actions, where to be tried.

5. *And be it enacted*, That the supreme court may order trials by foreign juries in all cases, where it shall be proper or necessary.

Supreme court may order trials by foreign juries.

6. *And be it enacted*, That the chief justice, or one of the justices of the supreme court, shall, twice a year, hold a court, to be called the circuit court, in every county of this state, except the county of Cape-May, for the trial of issues which have been or shall be joined in the supreme court or in any other court, and brought into the supreme court to be tried, and which are or may be triable in the said county.

Circuit courts to be held twice a year in each county, except Cape-May.

1799.

Times and
places of hold-
ing the circuit
courts.

In Bergen.

In Essex.

In Middlesex.
* Second, by
act, February
9, 1801.

In Monmouth.

In Somerset.

In Burlington.
* Fourth, by
act, February
13, 1801.

In Gloucester.

In Salem.

In Hunterdon.

In Morris.

In Cumber-
land.

In Sussex.

In Cape-May.

Transcript of
the declara-
tion and plead-
ings to be sent
to the circuit
court.

The jury pro-
cess, what,
and how to be
issued.

Judges of the
supreme court
to try issues,
and take as-
sises at circuit
courts.

7. *And be it enacted*, That the circuit court in and for each county of this state shall be held at the place of holding the court of common pleas in the same, and at the following times:

In the county of Bergen, on the fourth Tuesdays of March and October.

In the county of Essex, on the second Tuesday of April, and the third Tuesday of September.

In the county of Middlesex, on the second Tuesday of June, and the *third** Tuesday of December.

In the county of Monmouth, on the fourth Tuesday of April, and the third Tuesday of October.

In the county of Somerset, on the third Tuesday of April, and the first Tuesday of October.

In the county of Burlington, on the *third** Tuesday of May, and the first Tuesday of November.

In the county of Gloucester, on the third Tuesday of March, and the first Tuesday of October.

In the county of Salem, on the second Tuesday of June, and the first Tuesday of December.

In the county of Hunterdon, on the first Tuesday of May, and the fourth Tuesday of October.

In the county of Morris, on the third Tuesday of March, and the fourth Tuesday of September.

In the county of Cumberland, on the first Tuesday of June, and the last Tuesday of November.

In the county of Sussex, on the fourth Tuesday of May, and the fourth Tuesday of November.

And in the county of Cape-May, annually, on the last Tuesday of May.

8. *And be it enacted*, That when an issue is to be tried at a circuit court, a transcript of the declaration and pleadings in the cause, with a proper placita, and nothing more, shall be made and sent, under the seal of the supreme court, to the said circuit court, which shall be a sufficient warrant or authority for the latter to proceed upon, hear, and determine the said cause; and the plaintiff or defendant, or both, may have such transcript of the said proceedings, if required.

9. *And be it enacted*, That the process, for convening^a a jury to try an issue in the circuit court, shall be a venire facias, which shall be sued out of the supreme court, directed to the sheriff of the county, in which the said circuit court is to be held, and shall be returnable to the same, and there filed.

10. *And be it enacted*, That the chief justice and every justice of the supreme court shall be, and hereby is authorized and required, at the said circuit court, to try such issues and take such inquests by default, or otherwise, as are or ought to be tried or taken in the said court, to record nonsuits and defaults, to take assises, and to do and execute all other matters and things, which, by law, may or ought to be done respecting the premises.

11. *And be it enacted*, That the sheriff or other officer of the County, in which the said circuit court is to be held, shall make return to the said court of all writs and juries with the panels and other matters relative to the same, legally arrayed and executed.

1799.

Sheriff to make return of writs and juries to the circuit court.

12. *And be it enacted*, That all issues upon legality of marriage, and upon pleas or allegations of general or special bastardy, shall be tried by the country, and not otherwise.

Issues on legality of marriage and pleas of bastardy to be tried by the country only.

13. *And be it enacted*, That the justice, before whom such circuit court shall be held, shall return the said transcript, with the verdict and other proceedings before him had upon it, to the supreme court, at the next term, and the said supreme court shall receive and file the same, and give judgment thereon according to law.

Circuit court to make return of proceedings to the supreme court.

14. *And be it enacted*, That if by reason of challenges, or the default of jurors or otherwise, a sufficient number cannot be had of the jurors on the original panel to try the issue or cause, then the circuit court is hereby authorized and required to award a tales de circumstantibus, of persons present at the said court, and qualified according to law, to be joined to the other jurors, till the number of twelve jurors be sworn; which talesman shall be liable to the same challenges as the principal jurors; and thereupon the said court is hereby authorized to proceed to the trial of the said issue or cause, with such jury, which shall be as valid and effectual, as if the said issue or cause had been tried by twelve of the jurors returned on the original panel. And if any talesman, when present, be called, and shall not appear, or if he appear, shall wilfully withdraw from the court, then it shall be lawful for the said court to set a reasonable fine upon him, to be levied and made by distress and sale, in the manner prescribed by the act, entitled "An act for the recovery of fines imposed upon defaulting jurors."

Circuit court may award a tales de circumstantibus.

Talesman may be fined for default of attendance.

15. *And be it enacted*, That the supreme court of this state, and the courts of oyer and terminer, of general gaol delivery, and of general quarter-sessions,* shall be, and they are hereby respectively authorized and required to order a tales de circumstantibus, when necessary for the trial of issues and causes in the said courts, in the same manner as the circuit court is empowered and directed by the preceding section of this act; and also to impose fines on talesmen for non-appearance, withdrawing or making default, to be recovered in the manner herein before directed.

Supreme court and courts of oyer and terminer, general gaol delivery, and quarter-sessions, may order a tales de circumstantibus.

16. *And be it enacted*, That the clerk of the court of common pleas of every county shall be clerk of the circuit court, and of the courts of oyer and terminer and general gaol delivery in and for such county.

Clerk of the pleas to be clerk of the circuit court.

17. *And be it enacted*, That the courts of oyer and terminer and general gaol delivery, shall be held in the respective counties of this state, at the times of holding the circuit courts in the same, and at any other time, that the chief justice or one of the

The courts of oyer and terminer, and gaol delivery, to be held at the same times as the circuit courts.

* Common pleas may also order a tales; see act 23d January, 1817.

1799.

justices of the supreme court shall think it necessary to appoint, on application to him made in writing, by the board of chosen freeholders of the county.

Compensation
for holding cir-
cuit courts,
what, and how
to be paid.

18. *And be it enacted*, That the chief justice or justice of the supreme court, who shall hold any circuit court, or court of oyer and terminer, or general gaol delivery, shall receive, by way of compensation, thirty dollars, to be paid by the treasurer of this state, on a warrant signed by the governor, or vice-president in council, any three whereof to be a quorum. *Provided always*, That the said chief justice or justice shall not be allowed any compensation for holding the courts of oyer and terminer and general gaol delivery, or either of them, unless the same shall be held at a different time from holding the circuit court.

Former acts
repealed.

19. *And be it enacted*, That the act, entitled "An act for holding of courts of oyer and terminer, and general gaol delivery, and nisi prius, in the several counties of this state, and for other purposes therein mentioned," passed the twenty-third day of November, in the year of our Lord, one thousand, seven hundred and ninety-one; and the act, entitled "An act concerning the supreme and circuit courts," passed the ninth day of March, in the year of our Lord, one thousand, seven hundred and ninety-eight; and the act, entitled "An act supplementary to the act concerning the supreme and circuit courts," passed the sixteenth day of February, in the year of our Lord, one thousand, seven hundred and ninety-nine, be, and the same are hereby repealed.

See supplement, 10th of March, 1806.

PAT. 396.

AN ACT for the recovery of fines imposed upon defaulting jurors.

Passed the 6th of June, 1799.

Defaulting jurors, to have notice of their fines; which, if not remitted, shall be levied by distress and sale of their goods.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if any persons, who have been or shall be summoned as jurors, have been or shall be fined for non-attendance, by the supreme court, or courts of oyer and terminer and general gaol delivery, or either of them, or by any court of common pleas, or of general quarter-sessions of the peace, it shall be the duty of the clerk of the court to deliver a certified list of the names of such defaulting jurors, specifying the fine awarded against each of them, to the sheriff of the county, who shall, by himself, or his lawful deputy, either personally, or in writing, give notice to each defaulting juror of the fine so awarded against him, at least six days before the next term or session of the said court, which notice, if in writing, shall be signed by the said sheriff or his deputy, and left at the dwelling-house of the said juror: and if such fine shall not be paid to the said sheriff by the second day of the next term or session as aforesaid, or be then remitted by the court, it shall be the duty of the said court to issue process, directed to the sheriff, commanding him to levy and make the said

fine, with costs, by distress and sale of so much of the goods and chattels of such defaulting juror, as shall be sufficient to satisfy the same. And the sheriff for every such notice, shall be allowed one dollar, to be paid by the juror so making default, provided he shall have been summoned as such agreeably to law.

1799.

AN ACT. for the confinement of prisoners, under the authority of the United States, in the gaols of this state.

PAT. 390.

Passed the 6th of June, 1799.

WHEREAS it hath been recommended by congress to the legislatures of the several states to pass laws, making it expressly the duty of the keepers of their gaols, to receive and safe keep therein all prisoners committed under the authority of the United States, until they shall be discharged by due course of the laws thereof, under the like penalties as in the case of prisoners committed under the authority of such states respectively; the United States to pay for the use and keeping of such gaols, at the rate of fifty cents per month for each prisoner, that shall, under their authority, be committed thereto, during the time such prisoner shall be therein confined; and also to support such of said prisoners as shall be committed for offences; **THEREFORE—**

Preamble.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the sheriff and keeper of every gaol, in any county of this state, shall be, and he is hereby authorized and commanded to receive all prisoners committed to his custody, by the authority of the United States, and to keep them safely, until discharged by the due course of the laws of the same. And if any sheriff or gaol-keeper shall neglect or refuse to perform the services and duties required of him by this act, or shall offend in the premises, he shall be liable to the like penalties, forfeitures, and actions, as if such prisoners had been committed under the authority of this state. *Provided always,* That every prisoner, who shall be committed for any offence, by the authority of the United States, shall be supported by the same during his confinement in the said gaol.

Sheriffs and gaol keepers to receive prisoners to them committed by the authority of the United States.

2. *And be it enacted,* That the sheriff or keeper of every gaol, shall, on the first day of October, annually, make out, under oath, the name of all prisoners, who, within the year then last past, shall have been committed to his custody, under the authority of the United States, and the time that they shall have been respectively confined, with an account of the amount thereof, at fifty cents per month, for the use and keeping of such gaol, for every person so committed, together with an account of their subsistence, at the rate established by law for state prisoners, unless provided for by the United States, and transmit the same to the treasurer of this state, who is hereby authorized and required to

List of names of prisoners to be made out annually, with an account of expenses, &c. and transmitted to the treasurer, to be exhibited against the United States.

1799.

pay the said account out of any public money in his hands; and the said treasurer is hereby required to exhibit the several accounts, by him received and paid as aforesaid, against the United States, on or before the fifteenth day of November, annually, for allowance.

3. *And be it enacted*, That every act, within the purview of this act, be, and the same is hereby repealed.

See additional act, 15th of February, 1819.

FAT. 398.

AN ACT respecting conveyances.

Passed the 7th of June, 1799.

Conveyances of lands, how to be acknowledged or proved, before they can be received in evidence.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if any deed or conveyance of lands, tenements or hereditaments, lying and being in this state, heretofore made and executed, and not already acknowledged or proved according to law, or hereafter to be made and executed, shall be acknowledged by the party or parties, who shall have executed it, or be proved by one or more of the subscribing witnesses to it, that such party or parties signed, sealed and delivered the same as his, her, or their voluntary act and deed, before the chancellor of this state, or one of the justices of the supreme court of this state, or one of the masters in chancery, or one of the judges of any of the courts of common pleas of this state, and if a certificate of such acknowledgment or proof shall be written upon or under the said deed or conveyance, and be signed by the person, before whom it was made, then every such deed or conveyance, so acknowledged or proved, and certified, shall be received in evidence in any court of this state, as if the same were then and there produced and proved.

Judge of the pleas of one county may take the acknowledgment or proof of a deed of lands in another county.

2. *And be it enacted*, That such acknowledgment or proof of any such deed or conveyance made or to be made before a judge of any court of common pleas, in any county of this state, whether the lands, tenements or hereditaments therein expressed, be situate in the said county or elsewhere in this state, shall have the same construction and effect, and be as good and available in law, as if such acknowledgment or proof had been made before one of the justices of the supreme court of this state, or one of the judges of the court of common pleas of the county, in which the said lands, tenements or hereditaments are situate.

No conveyance of lands to be recorded, unless acknowledged or proved.

3. *And be it enacted*, That no deed or conveyance of lands, tenements or hereditaments, lying and being in this state, which has been made and executed, and not already acknowledged or proved according to law, or which shall be made and executed, shall be recorded in the office of the secretary of this state, or in the office of the clerk of the court of common pleas of the county, in which the said lands, tenements or hereditaments are situate, unless the execution of the same shall have been first ac-

knowledge or proved, and certified, in the manner herein directed.

1799.

4. *And be it enacted*, That no estate of a feme covert, in any lands, tenements or hereditaments, lying and being in this state, shall hereafter pass by her deed or conveyance, without a previous acknowledgment made by her, on a private examination, apart from her husband, before one of the officers aforesaid, that she signed, sealed, and delivered the same as her voluntary act and deed, freely, without any fear, threats or compulsion of her husband, and a certificate thereof written on or under the said deed or conveyance, and signed by the officer, before whom it was made: *And further*, That every deed or conveyance, so executed and acknowledged by a feme covert, and certified as aforesaid, shall release and bar her right of dower, and be good and effectual to convey the lands, tenements or hereditaments, thereby intended to be conveyed; *Provided*, That this clause shall not be construed to enable any feme covert, under the age of twenty-one years, to convey lands, tenements or hereditaments, or any right of dower, interest or estate therein.

In what manner a conveyance of a feme covert is to be acknowledged before her estate can pass.

5. *And be it enacted*, That if the party, who shall execute any deed or conveyance of lands, tenements or hereditaments, lying and being in this state, or the witnesses thereto, reside not in this state, but in some other state in the union, then the said acknowledgment or proof, made before and certified by the chief justice of the United States, or an associate justice of the supreme court of the United States, or a district judge of the same, or any judge or justice of the supreme or superior court of any state in the union, shall be as good and effectual, as if it had been made before, and certified by one of the justices of the supreme court of this state.

How conveyances may be acknowledged or proved, if the grantors or witnesses reside in some other state in the union.

6. *And be it enacted*, That if the party, who shall execute any deed or conveyance of lands, tenements or hereditaments, lying and being in this state, or the witnesses thereto, reside in a foreign kingdom, state, nation or colony, then the said acknowledgment or proof, made before any court of law, or mayor or other chief magistrate of any city, borough or corporation of the said foreign kingdom, state, nation or colony, in which the said party or witnesses reside, certified by the said court, mayor, or chief magistrate, in the manner such acts are usually authenticated by them or him, shall be as good and effectual, as if it had been made before, and certified by one of the justices of the supreme court of this state.

How conveyances may be acknowledged or proved, if the grantors or witnesses reside in a foreign kingdom or state.

7. *And be it enacted*, That the two preceding sections of this act shall be construed to extend to and comprehend acknowledgments of deeds or conveyances, which shall be made by femes covert, who reside out of this state, and in any other state in the union, or in any foreign kingdom, state, nation or colony.

The two preceding sections to extend to femes covert.

8. Repealed by act, June 5, 1820.

9. *And whereas* it is necessary that provision should be made for proving deeds or conveyances of lands, tenements or hereditaments, where the grantors and witnesses are dead; *Therefore, be*

1799.

Grantors and witnesses of deeds being dead, proof may be made of their hand-writing.

it enacted, That if the grantor or witnesses of any such deed or conveyance be dead or cannot be obtained, it shall be lawful for any of the officers herein before mentioned, as the case may require, to take, under oath or affirmation, the examination of any person or persons, to prove the hand-writing of such deceased witness or witnesses, or where such proof cannot be had, then to prove the hand-writing of the said grantor or grantors, which shall be certified on or under such deed or conveyance, and signed by the officer, before whom such proof shall have been made; and such deed or conveyance, so proved and certified, shall be received in evidence, and recorded by the secretary of this state, or clerk of the court of common pleas of the county, in which the said lands, tenements or hereditaments are situate, in the same manner as other deeds or conveyances are directed by this act.

Deeds to be recorded in the office of the secretary, or of the clerk of the common pleas.

10. *And be it enacted*, That the secretary of this state shall record, in large well bound books of good paper, to be provided for that purpose, and carefully preserved, all deeds and conveyances of lands, tenements and hereditaments, lying and being in this state, acknowledged or proved, and certified to have been acknowledged or proved in manner before mentioned, which shall be delivered to him to be recorded; and the clerk of the court of common pleas of the county shall record, in large well bound books of good paper, to be provided for that purpose, and carefully preserved, all deeds and conveyances of lands, tenements and hereditaments, lying and being in the said county, acknowledged or proved, and certified to have been acknowledged or proved in manner aforesaid, which shall be delivered to him to be recorded. To which books, every person shall have access at proper seasons, and be entitled to transcripts from the same, on paying the fees allowed by law.

Manner in which conveyances are to be recorded by the secretary and clerk.

11. *And be it enacted*, That it shall be the duty of the said secretary or clerk to record in the said book, without delay, every such deed or conveyance, with the acknowledgments, proofs and certificates, written on or under the same, and the plats, surveys, schedules and other papers therein referred to and thereto annexed, by entering them word for word, in a fair hand, noting at the foot of each record, all the interlineations and words visibly written on erasures, omitting, however, to enter in the record, the erasures and obliterations, and mentioning in the margin, or at the foot of such record, the day of the month and the year, when the said deed or conveyance was delivered to him or brought to his office to be recorded.

Further duties of the secretary and clerk.

12. *And be it enacted*, That the said secretary or clerk shall give a receipt to the person, who shall bring any such deed or conveyance, mentioning therein the time when it was delivered to him or brought to his office to be recorded, its date, the names of the parties to it, and the place where the lands, tenements or hereditaments, therein specified, are situate; that the said secretary or clerk shall certify on or under such deed or conveyance the day of the month and year, when he received it, and the name or number of the book, and page or pages, in which it is

recorded, and shall, when recorded, deliver it to the party entitled to it, or his order.

1799.

13. *And be it enacted*, That if any secretary or clerk shall neglect or refuse to perform any service or duty, required of him by this act, he shall for every neglect or refusal, forfeit and pay two hundred dollars, to be recovered, with costs, by action of debt, by the county collector, and paid to the treasurer of this state, for the use of the state; and shall also be liable for all damages, which the party aggrieved may have sustained, by reason of the non-performance of such service or duty.

Penalty on secretary or clerk for neglect of any duty required by this act.

14. *And be it enacted*, That the record aforesaid, of such deed or conveyance, and the transcript of such record, certified to be a true transcript by the said secretary or clerk, in whose office the record is kept, shall be received in evidence in any court of this state, and be as good, effectual and available in law, as if the original deed or conveyance were then and there produced and proved.

Record of deeds, and certified copies thereof, to be received in evidence.

15. Repealed and supplied by act, March 2, 1820.

16. *And be it enacted*, That every person who shall be appointed to the clerkship of any court of common pleas, shall, on receiving the book or books, in which such deeds and conveyances are recorded, sign and acknowledge a receipt for the same, before one of the judges of the said court, whose duty it shall be to deliver the said receipt to the secretary of this state, to be by him filed in his office.

Clerks to give receipts for books, in which deeds are recorded.

17. *And be it enacted*, That upon the death, removal or expiration of the office of clerk of any court of common pleas, the seal, minutes, papers, deeds, writings, documents, records and books of or belonging to such office, shall be delivered to the successor in office, on the oath or affirmation of the preceding clerk, or, in case of his death, on the oath or affirmation of his executors or administrators; and if such clerk, his executors or administrators, shall refuse or neglect to deliver the same, on oath or affirmation as aforesaid, being demanded by the successor in office, then every such person shall forfeit and pay five hundred dollars, to be recovered, with costs, by action of debt, in the name of the county collector, for the use of the state.

On the death, removal, &c. of the clerk, the official seal, papers, records and books to be delivered to his successor.

18. *And be it enacted*, That no record shall be removed by writ of subpœna or otherwise before any court out of the county, in which such record is kept, where a transcript thereof may be given in evidence.

When records shall not be removed out of the county.

19. *And be it enacted*, That every grant or conveyance of messuages, lands, tenements and hereditaments, or of rent, or of the reversion or remainder of messuages, lands, tenements and hereditaments, shall be good and effectual, without attornment of the tenant; but no tenant, who, before notice of such grant or conveyance, shall have paid the rent to the grantor, shall be prejudiced or suffer any damage by such payment.

Grants and conveyances good without attornment.

20. *And be it enacted*, That a warranty, made by tenant for life, of lands, tenements or hereditaments, which shall descend

Warranty by tenant for life, void against the reversioner or remainder man.

1799. or come to any person in reversion or remainder, shall be inoperative and void.

When collateral warranties of lands shall be void against heirs.

21. *And be it enacted*, That a collateral warranty, which shall be made of lands, tenements or hereditaments, by an ancestor, who, at the time of making it, hath no estate of inheritance in possession therein, shall be inoperative and void against his heirs.

Repeal of a certain act.

22. *And be it enacted*, That the act, entitled "An act to prevent the public records being removed by writs of subpoena," passed the twenty-third day of November, in the year of our Lord, one thousand seven hundred and ninety-one, be, and the same is hereby repealed.

See supplement, 5th June, 1820.

sec. 401.

AN ACT concerning witnesses.

Passed the 7th of June, 1799:

What crimes exclude from testimony.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That no person, who shall be convicted of blasphemy, treason, murder, piracy, arson, rape, sodomy, or the infamous crime against nature, committed with mankind or with beast, polygamy, robbery, conspiracy, forgery, or larceny of above the value of six dollars, shall, in any case, be admitted as a witness, unless he or she be first pardoned; and no person, who shall be convicted of perjury, or of subornation of perjury, although pardoned for the same; shall be admitted as a witness, in any case.

Witnesses to be protected from arrests in civil cases, and no other.

2. *And be it enacted*, That every witness shall be protected and privileged from arrests in all civil actions, and no other, during his necessary attendance at any court, or other place, where his attendance shall have been required by subpoena previously and duly executed, and in going to and returning from the same, allowing one day for every thirty miles from his place of residence.

Remedy against witnesses for not attending when duly summoned.

3. *And be it enacted*, That if any person, on whom lawful process shall have been duly served to testify, depose, or give evidence concerning any cause or matter, which is or shall be depending in any court of this state, and to whom shall have been paid or tendered, at the time of such service, fifty cents, if he is to attend in the county, and one dollar, if he is to attend out of the county, shall not appear according to the tenor of the said process, having no lawful or reasonable let or impediment to the contrary, he shall, for every offence, forfeit to the party aggrieved, any sum not exceeding fifty dollars, to be ascertained and adjudged by the court, in which he or she may be subpoenaed to attend; and shall also pay to the said party, damages, equivalent to the loss sustained by want of his evidence, to be recovered by action of trespass on the case, with costs.

The courts of common pleas and quarter-

4. *And be it enacted*, That every court of common pleas and of general quarter-sessions of the peace of this state, is hereby

authorized and directed to issue process of subpoena, requiring the attendance of a witness, who resides in any part of this state, out of the jurisdiction of the said court, to testify, depose, or give evidence in any cause or matter, which is or shall be depending in the said court, and every person who shall be duly served with such subpoena, shall be, and hereby is required to attend at the time and place therein mentioned, under the same penalties, and shall be liable to the same action, which he would have incurred or have been liable to in case of non-attendance, if he had been within the jurisdiction of the said court at the time of the service of the said subpoena.

1799.

sessions may issue subpoenas for witnesses who reside out of their jurisdiction.

5. *And be it enacted*, That in every action, which hath been or shall be instituted in any court of this state, against the county collector, the township collector, the sheriff, constable, or other officer or person of or in the said county or township, for taxes, impositions, fines, or other public moneys, by him received, and not accounted for and paid according to law, the inhabitants of such county or township shall be admitted as competent witnesses, notwithstanding their liability to taxation, or being interested.

Inhabitants of counties and townships may be witnesses in actions against county and township officers, and other persons, for public moneys.

6. *And be it enacted*, That the act, entitled "An act for the better securing the attendance of witnesses in the several county courts and before justices of the peace," passed the twelfth day of August, in the year of our Lord, one thousand, seven hundred and eighty-four, and the act, entitled "An act in relation to testimony in prosecutions for public moneys," passed the eighteenth day of March, in the year of our Lord, one thousand, seven hundred and ninety-six, be, and the same are hereby repealed.

Certain acts repealed.

For fees of witnesses, see sec. 2, act June 13, 1799.

AN ACT to register mortgages.

PAT. 402.

Passed the 7th of June, 1799.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the clerk of the court of common pleas of every county of this state, shall, from time to time, provide fit books, well bound and lettered, for registering all mortgages and defeasible deeds in the nature of mortgages, of lands, tenements and hereditaments, lying and being within his county; in which shall be entered the names of the mortgagor and mortgagee, the date of the mortgage, the mortgage money and when payable, and the description and boundaries of the lands, tenements and hereditaments mortgaged; that the said clerk shall, immediately on receiving the said mortgage, make the said entry or abstract in the register, and shall note in the margin, or at the foot of such abstract, the day of the month and the year, when the said mortgage was delivered to him or brought to his office to be recorded. To which books every person shall have access at proper seasons, and may search the same, paying the fees allowed by law.

Clerks of common pleas to register mortgages.

Mode of registering.

2. *And be it enacted*, That the said clerk shall certify on or

1799.

The time when mortgage was brought to be registered, and when registered, to be endorsed thereon.

No mortgage to be registered, unless acknowledged or proved.

If a deed be absolute on its face, but by another writing intended to be conditional, it shall be considered as a mortgage, and an abstract of both be registered.

How the registry of a mortgage, when redeemed, shall be barred.

Clerk's fees.

Penalty on the clerk for misconduct.

under the said mortgage the time when such mortgage was delivered to him or brought to his office to be registered, and the name or number of the book, and page or pages, in which it is registered, and shall, if required by the party, give a receipt for the said mortgage, stating therein the time when he received it, and shall when registered, deliver it to the party entitled to it, or his order.

3. *And be it enacted*, That no mortgage, defeasible deed, or other conveyance, in nature of a mortgage, which has been made and not already acknowledged or proved, according to law, or which shall be made, shall be entered in such register, unless the execution thereof shall be first acknowledged or proved, and certified in the manner prescribed by the act, entitled "An act respecting conveyances."

4. *And be it enacted*, That if any deed or conveyance, which shall be made of lands, tenements and hereditaments, lying and being in this state, be expressed in absolute and unconditional terms, and it shall appear, by any other writing, to have been intended by way or in nature of a mortgage, then such deed or conveyance shall be considered as a mortgage, and be liable to be registered by virtue of this act; and that the grantee in the said deed or conveyance shall not be entitled to or enjoy the benefits and advantages hereby given to a mortgagee, unless an abstract of the writing, operating as a defeasance of it, or explanatory of the intention of the parties, that it should have the effect of a mortgage or conditional deed, be also therewith registered, as in case of a mortgage.

5, 6. *Repealed by act, June 5th, 1820.*

7. *And be it enacted*, That when any mortgage, registered as aforesaid, shall be redeemed, paid and discharged, it shall be the duty of the said clerk, on application to him made by the mortgagor or person redeeming, paying and discharging the said mortgage, and producing to him the said mortgage cancelled, or a receipt thereon, signed by the mortgagee or his executors, administrators or assigns, to enter in a margin, to be left for that purpose, opposite to the said abstract, a minute of the said redemption, payment and discharge; which minute shall be a full and absolute bar to and discharge of the said entry, registry and mortgage.

8. *And be it enacted*, That the said clerk shall be allowed, for services done by virtue of this act, the following and no other fees.

For registering abstract of a mortgage,	forty cents.
For every receipt for a mortgage,	ten cents.
For every search,	seven cents.
For entering the minute of a discharge,	thirteen cents.

9. *And be it enacted*, That if any clerk shall give an undue preference to a mortgage, or shall register a mortgage last when it ought to be registered first, or shall neglect or refuse to perform any service or duty, required of him by this act, he shall, for every such offence, forfeit and pay two hundred dollars, to be recovered, with costs, by action of debt, by the county collector, and paid to the treasurer of this state, for the use of the

state; and shall also be liable for all damages, which the party aggrieved may have sustained by reason thereof.

1799.

10. Repealed by act, June 5th, 1820.

11. *And be it enacted*, That the act, entitled "An act for preventing frauds by mortgages, which shall be made and executed after the first day of January, one thousand, seven hundred and sixty-six," passed the twentieth day of June, in the year of our Lord, one thousand, seven hundred and sixty-five, and the act, entitled "An act further to prevent frauds by mortgages," passed the fourteenth day of November, one thousand, seven hundred and eighty-six, shall be, and the same are hereby repealed.

Former acts repealed.

See supplement, 5th of June, 1820.

AN ACT concerning taxes.

PAT. 404.

Passed the 10th of June, 1799.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the assessor of every township, shall, between the twentieth day of June and the twentieth day of August, annually, take a true account, and make out an exact list of the persons, lands, chattels, effects and estates, including certainties, made ratable by law in that year, by which all assessments during the said year shall be regulated and made; and every inhabitant of the township shall, on application of the assessor, forthwith render a full and true account of his name and his ratable lands, chattels, effects and estates as aforesaid, which the assessor shall set down in writing, in order that the legislature may ascertain the proportion or quota of each county, and that every individual may be duly and justly assessed.

Assessors, when to make out a list of taxable persons and property.

2. *And be it enacted*, That if any inhabitant shall neglect or refuse to render such account, or shall render a false or fraudulent account, he shall be taxed in a sum double to what the said assessor may suppose his ratable estate would be taxed; which shall not be reduced or altered by the commissioners of appeal, unless the offender can make it appear, by the testimony of credible witnesses, that he was not guilty of such neglect or refusal, or did not render a false or fraudulent account as aforesaid.

Persons, who shall render no account, or a false one, to be taxed doubly.

3. *And be it enacted*, That when any money shall be directed to be assessed, collected and paid into the treasury of this state, agreeably to this act, it shall be the duty of the assessors of the several townships, in every county, to meet at the hour of ten in the forenoon of the first Monday of September, in every year, at the place of holding the court of common pleas in such county, and then and there to ascertain the amount of the certainties, required by law to be rated in the assessment to be made, and to estimate the estate, real and personal, taken by the assessor of each township, at such valuation as they or a majority of them then present shall think reasonable and just, according to the law

Assessors, when and where to meet to adjust the quotas of the several townships.

1799.

for the time being for that purpose, and thereby to adjust and fix the proportion or quota of the tax to be levied and collected in each township.

Two abstracts of ratables to be made; one for the county collector, and the other for the legislature.

4. *And be it enacted*, That it shall be the duty of the said assessors at such meeting to make out two abstracts of the amount of all the ratables in each township, in the manner heretofore practised, which shall be signed by every assessor present, and on the same day delivered to the county collector, who shall lay one of the said abstracts before the legislature, during the course of the first week of their stated annual session.

Duplicate of assessment, when and to whom to be delivered.

5. *And be it enacted*, That the said assessors shall, within fifteen days after such meeting, deliver to the township collector, a true transcript or duplicate of the said assessment, in which they shall add together the sums contained in each column, and place such aggregate sum at the foot of each column, through every page, and shall also within the said time, deliver another such transcript or duplicate to the county collector, who is hereby required to lay the same before the legislature, in the course of the first week of their stated annual session.

Amount of certainties to be deducted, and the remainder to be assessed on the other taxable property in the township.

6. *And be it enacted*, That the amount of the certainties shall be deducted by the said assessors from the quota or sum apportioned to every township, and the remainder of the said quota or sum, with the fees of assessment, collection, and paying over to the treasurer, shall be assessed on the other taxable property within such township, according to the valuations aforesaid, at such rate per dollar, as will be sufficient to produce the sum required.

Penalty on assessors for neglect of duty.

7. *And be it enacted*, That if any assessor shall neglect or refuse to perform any service or duty as required by law, he shall, for every such neglect or refusal, forfeit and pay the sum of thirty-two dollars, to be recovered, with costs, by action of debt, in the name of the clerk of the township for which such assessor was elected or appointed, and for the use of the said township.

Party aggrieved by assessment may appeal to the commissioners of appeal.

8. *And be it enacted*, That if any person shall think himself aggrieved by such assessment, he may appeal to the commissioners of appeal, in cases of taxation, in and for the proper township, who are hereby required to convene on the second Tuesday of November, annually, for the purpose of discharging the duties of their office, in all matters arising under this act.

A majority of attending assessors competent to fix the quotas.

9. *And be it enacted*, That if any assessor shall not attend at the time and place before directed for the meeting of the assessors of the county, it shall and may be lawful for a majority of the said assessors, convened as aforesaid, to proceed to business, and to ascertain the proportion of the tax to be assessed and levied on the township of the non-attending assessor, according to the best of their knowledge and information, which proportion shall be assessed and collected by the assessor and collector of the said township.

Township collector to advertise the day

10. *And be it enacted*, That the collector of every township shall, annually, on the first day of October, give notice, by ad-

vertisements set up in at least four of the most public places of the township, of the said tax, and that, if it be not paid by a certain day therein mentioned, the name of the defaulter, with the tax, will be returned to a justice of the peace for prosecution, in which advertisements, notice shall also be given of the time and place of the meeting of the commissioners of appeal, in cases of taxation.

1799.

of paying the tax, and the meeting of the commissioners of appeal.

11. *And be it enacted*, That the township collector, within thirty days after receipt of the transcript or duplicate of the said assessment, shall demand payment of the tax, or sum assessed on each individual in his township, in person, or by notice left at his or her place of residence, and also give notice of the time and place of the meeting of the said commissioners of appeal; and the said collector shall pay the taxes by him collected, and the fines and forfeitures by him received, by virtue of any law of this state, to the collector of the county, by the twenty-second day of December, in every year.

Township collector to make demand of the tax, and give notice of the meeting of the commissioners of appeal.

12. *And be it enacted*, That in case of the non-payment of taxes at the time appointed, the township collector shall make out a list of the names of the delinquents, with the sums due from them respectively thereto annexed, and deliver the same to some justice of the peace of the county, on the twentieth day of December, in every year, except when the said day shall happen on a Sunday, and then on the next day following.

When return of delinquents shall be made to a justice.

13. *And be it enacted*, That it shall be the duty of the said justice of the peace, on receiving a list of the names of such delinquents, to administer an oath to the said collector, that the moneys in the said list mentioned had been duly demanded, or due notice thereof given or left at the usual place of residence of each delinquent, who can be found, or who may then reside in the said township, and thereupon to give to the said collector a receipt for such list, certifying therein the names of the delinquents, and the sums at which they were respectively assessed: *And further*, That the said township collector shall not be charged by the county collector with the sums in such list contained, until he shall have received the same from the constable.

Township collector to make oath of the truth of his return.

14. *And be it enacted*, That if any township collector shall neglect or refuse to perform any service or duty as required by law, he shall, for every such neglect or refusal, forfeit and pay thirty-two dollars, to be recovered, with costs, by action of debt, by the county collector, and applied to the use of the county.

Penalty on collector for neglect of duty.

15. *And be it enacted*, That the assessors shall, for assessing and making out the duplicates, be allowed four cents for every name contained in any of the said duplicates: and the township collectors shall be allowed four cents for collecting the tax from every person mentioned in the said duplicates, and paying the same to the county collector.

Allowance to assessors and township collectors.

16. *And be it enacted*, That the time, by this act appointed, for the meeting of the assessors to ascertain and apportion the quota of the townships, for making and delivering the assessments to the township collectors, for delivering a list of the names

Times appointed by this act for the performance of certain duties

1799.

to govern future assessments.

Justice to issue a warrant for taxes unpaid.

When constable is to sell the goods and pay the money.

If no goods, the delinquent to be imprisoned.

Fees of justice and constable.

Penalty on justice for neglect of duty.

Constable to return the warrant to the justice who issued it.

Penalty on constable for neglect of duty.

of the delinquents to a justice of the peace, and for the payment of tax moneys by the township collectors to the county collectors, shall extend to and govern all future assessments for the use of the state.

17. *And be it enacted*, That it shall be the duty of the justice of the peace, within five days after the receipt of the list of the names of the delinquents, to make out and deliver to the constable or constables a warrant or warrants, requiring him or them to levy the tax so in arrear, with costs, by distress and sale of the goods and chattels of the delinquent, giving at least four days notice of the time and place of such sale, by advertisements set up in three of the most public places in the township; and it shall be the duty of the said constable or constables to pay the tax, for which such warrant is issued, to the township collector, within forty-five days after the date thereof; and the said warrant shall further direct, that if goods and chattels of the delinquent cannot be found, or not sufficient to make the money required, the constable shall take his or her body, if to be found in the county, and deliver the same to the sheriff of such county, or his gaoler, to be kept in close and safe custody, until payment be made of the said tax, with costs.

18. *And be it enacted*, That the justice, who shall issue the said warrant, shall be allowed two cents for every delinquent's name therein contained; and the constable shall be allowed thirty-four cents for each distress, and not more, although two or more taxes shall have been specified in the said warrant; and after deducting the tax and costs, the constable shall pay the surplus money to the delinquent.

19. *And be it enacted*, That if any justice of the peace shall neglect or refuse to perform any service or duty required of him by this act, he shall for every neglect or refusal, forfeit and pay thirty-two dollars, to be recovered, with costs, by action of debt, by the county collector, and be applied to the use of the county.

20. *And be it enacted*, That it shall be the duty of the constable to return the said warrant to the justice, who issued the same, with a schedule thereunto annexed, containing a particular account of the money by him levied of the goods and chattels of or received from each delinquent, and in what manner, in other respects, he had executed the said warrant; and the said justice shall, upon receipt of such return, deliver a copy of the said warrant and return to the township collector, upon his application for it, and shall return the original warrant, if not fully executed, to the constable, who is hereby commanded to proceed on and execute the same.

21. *And be it enacted*, That if any constable, to whom such warrant shall be delivered, shall neglect or refuse to execute the same as therein directed, or shall neglect or refuse to pay the tax money, which he shall have levied and made by distress and sale as aforesaid, to the township collector, or shall neglect or refuse to perform any other service or duty required of him by this act, he shall forfeit and pay for every such neglect or refusal, thirty-

two dollars, to be recovered, with costs, by action of debt, by the township collector, for the use of the township.

1799.

22. *And be it enacted*, That every such constable, besides the penalty prescribed by the preceding section, shall be liable for the amount of the taxes, which, by the said warrant, he was required to make by distress and sale as aforesaid, or for such part thereof, as he shall not have paid to the township collector, except the deficiencies happen without any neglect, fraud, or default on his part, to be recovered, with interest and costs, by action of trespass on the case, at the suit of the township collector, for the use of the township, before any judge of the court of common pleas of the county, who is hereby authorized and required to hear and determine the same, and immediately on entry of judgment to issue his warrant, directed to the sheriff of the county, and commanding him to levy and make the sum, so adjudged, by distress and sale of the goods and chattels of the said constable; and the said sheriff shall return the said warrant, with his proceedings thereon, to the said judge, at the time therein specified.

Constable liable for the amount of taxes not paid over to the township collector. How, by whom, and before whom the same is to be recovered.

23. *And be it enacted*, That it shall be the duty of the township collector to pay the moneys, which he shall have received by virtue of any such assessment, to the county collector, by the twenty-second day of December, in every year, and, upon receipt of any tax money from a constable, to make immediate payment thereof to the said county collector.

Township collectors, when to pay the money to the county collectors.

24. *And be it enacted*, That if any township collector shall not pay the tax money, by him collected, or by him received from the constable, or shall pay only part thereof at the time appointed by law, he shall be liable for the same, to be recovered, with interest and costs, by action of trespass on the case, at the suit of the county collector, for the use of the state, before any judge of the court of common pleas of the said county, who is hereby authorized and required to hear and determine the said action, and, immediately on the entry of judgment, to issue a warrant, directed to the sheriff of the county, and commanding him to levy and make the sum, so adjudged, by distress and sale of the goods and chattels of the said township collector; and the said sheriff shall return the said warrant, with his proceedings thereon, to the said judge, at the time therein specified.

Township collector liable for the amount of the taxes not paid over to the county collector. How, by whom, and before whom the same is to be recovered.

25. *And be it enacted*, That it shall be the duty of every county collector to pay the tax money, which he shall have received of the township collectors, to the treasurer of this state, by the thirtieth day of December, in every year; and also to pay any tax money, which he shall have received of the sheriff, to the said treasurer, within ten days after receiving the same; and for the moneys so paid, the treasurer shall give receipts, which shall be sufficient vouchers to exonerate and discharge the said county collector to the amount therein contained.

County collectors, when to pay the money to the treasurer of the state.

26. *And be it enacted*, That every county collector shall be allowed one cent per dollar, for all taxes which he shall receive and pay to the treasurer of this state, and also, for the payment

Fees of the county collector.

1799.

of each general assessment, seven cents for every mile that his place of residence may be distant from the office of the said treasurer.

Penalty on the county collector, for neglect of duty.

27. *And be it enacted*, That if any county collector shall not pay, to the treasurer of this state, the tax money by him received from the township collector or sheriff, or shall pay only part thereof, at the time appointed by law, or shall neglect or refuse to perform any other service or duty required of him by this act, he shall, for every offence, forfeit and pay fifty dollars, to be recovered, with costs, by action of debt, by the treasurer of this state for the time being, for the use of the state, before any justice of the supreme court, who shall have exclusive cognizance of the same, and who is hereby authorized and required to direct the proper process in such action to the sheriff of the county, in which such collector resides, whose duty it shall be to execute the same; and on entry of judgment in the said action against the county collector, the said justice shall issue his warrant thereon, directed to the sheriff of the county, commanding him to levy and make the sum, so adjudged, by distress and sale of the goods and chattels of the said county collector; and such sheriff shall return the said warrant, with his proceedings thereon, to the said justice, at the time therein specified.

County collector, when liable for taxes, and how to be recovered.

28. *And be it enacted*, That if any county collector shall not pay the tax moneys by him received, or shall only pay a part thereof, at the time appointed by law, he shall be liable for the same, to be recovered with interest and costs, by action of trespass on the case, by the treasurer of this state, for the use of the state; in which the other proceedings shall be the same as are designated in the section next preceding.

Townships to be liable for any deficiency or loss occasioned by the malpractice or insolvency of their collectors or constables.

29. *And be it enacted*, That if any township collector or constable shall squander, waste, embezzle, or become insolvent and unable to pay any tax moneys, or other moneys, or property belonging to this state, and by him received in virtue of his office, then the said township, for which such collector was chosen or appointed, shall be liable for and make good such deficiency or loss, by adding the same to the quota of such township, in the next assessment to be made therein by the authority of this state; and the assessor of the said township is hereby required to assess the same, under the like penalties as are herein before referred to for neglect of duty.

Counties to be liable for any deficiency or loss occasioned by the malpractice or insolvency of their collectors.

30. *And be it enacted*, That if any county collector shall squander, waste, embezzle or become insolvent and unable to pay, any tax moneys, or other moneys, or property belonging to this state, and by him received in virtue of his office, then the said county, for which he was appointed, shall be liable for and make good such deficiency or loss, by adding the same to the quota of such county, in the next tax to be levied therein by the authority of this state; and the assessors are hereby required to apportion the same among the several townships, under the like penalties as are herein before referred to for neglect of duty.

31. *And be it enacted*, That it shall be the duty of the treasurer

of this state, to add the annual deficiency of every county to the quota of such county, in the next tax to be raised therein by the authority of this state; and it shall be the duty of the county collector to charge such deficiency to the deficient township or townships, which shall be assessed on and collected from the same, over and above the quota of such township or townships, in the next tax as aforesaid; and to prevent all delay or neglect in this particular, it is hereby made the further duty of every county collector to attend and deliver to the assessors, when they meet to adjust and apportion the county's quota of the said tax among the several townships, an accurate account of the whole deficiency of each township, which said deficiency shall be assessed on such township, in the same manner and proportion as the tax then to be raised is required to be assessed.

1799.

Treasurer to add the annual deficiency of the county to the next quota of such county's tax; and the county collector to charge such deficiency to the next quota of every defaulting township's tax.

32. *And be it enacted*, That the tenants or other persons in possession or having the care of any lands or tenements, and their goods and chattels, shall be, and they hereby are made liable for the payment of taxes, which are or shall be imposed on the said lands; and if any such tenant or other person shall pay, or his or her goods and chattels shall be levied on and sold to pay any such tax, it shall be lawful for him to deduct the sum, so paid, out of the rent, or to recover the same from the landlord or owner by action of debt, with costs: *Provided always*, That nothing in this act shall affect or extend to any contract made or to be made between landlord and tenant.

Tenants to pay taxes, and deduct the same from the rent.

But this act not to affect any contract between landlord and tenant.

33. *And be it enacted*, That if the tax, which shall be laid on any unimproved or untenanted land, be not paid agreeably to law, or if tenanted by any person or persons, (not the lawful proprietor) who are unable to pay his or her tax as aforesaid, it shall be the duty of the township collector to make return thereof to a justice of the peace of the county, who is hereby authorized and required to issue a warrant to any constable of the said county, commanding him to levy such tax by distress and sale of so much of the timber, wood, herbage, or other vendible property of the owner, and on the premises, as will be sufficient to pay the same, with costs, in the manner prescribed by the seventeenth section of this act.

Taxes on unimproved or untenanted lands, how to be recovered.

34. *And be it enacted*, That all justices of the peace, constables and township collectors, shall render to the township committee of their respective townships, when by them required, a true account of all the moneys, which they or any of them shall have received, on any assessment made or to be made, and not paid over to the county collector agreeably to law; which moneys the said justices of the peace, constables and township collectors, are hereby directed to pay, on demand, to the said township committee; and if any justice of the peace, constable, or township collector, shall not account and pay as aforesaid, then the clerk of the township is hereby authorized and required to prosecute him for the same, in the name of the inhabitants of the said township, in the manner prescribed in and by the twenty-fourth section of this act; and the moneys, so recovered, shall be disposed of for the use of the township.

Justices of the peace, constables, and township collectors to account for tax money to the township committee.

1799.

When the judge or justice may take warrant from one constable and direct it to another, or issue a new warrant.

35. *And be it enacted*, That when any constable shall be prosecuted for not collecting or paying any tax money agreeably to law, and complaint shall be made by the prosecutor, that he is in fear that the said constable will make use of or not pay forward any such money to be collected, then it shall be the duty of the judge or justice, before whom such prosecution shall be had, to demand and take the warrant of distress from the said constable, giving him credit for the taxes not collected, and to direct the same, or to issue another warrant to any other constable, who is hereby commanded to execute such warrant; and if the said constable shall neglect or refuse to give up the said warrant, or to render a true account of the taxes not received thereon, then it shall be the duty of the said judge or justice to commit such constable to the common gaol of the said county, there to remain, without bail or mainprize, until he give up such warrant, or render such account.

When and how execution shall be issued against the real-estate of a county collector, township collector, or constable.

36. *And be it enacted*, That where the sheriff, to whom any warrant shall be directed by virtue of this act, cannot find goods or chattels to distrain, or cannot find sufficient to make the full sum, then the said sheriff, after making sale of such goods and chattels as he may have found, shall return the said warrant, endorsing thereon how far he has executed it, to the judge who issued the same; and it shall be the duty of the said judge to transmit, under his hand and seal, a true copy of the entry of the judgment, and awarding of the warrant, and the sheriff's return, to the clerk of the supreme court, if such prosecution be at the suit of the treasurer of this state, or to the clerk of the court of common pleas of the county, if it be at the suit of the county or township collector, who is hereby authorized and directed to file the same, and thereupon to enter, in the minutes of the said court, judgment against such defaulting county collector, township collector, or constable, for the amount of the debt or tax money, with interests and costs, as endorsed on the said warrant, or the residue thereof, as the case may require, and on such judgment to issue, record, direct and deliver to the sheriff of the proper county, a writ of execution against the lands, tenements, hereditaments and real estate of the said county collector, township collector, or constable; which lands, tenements, hereditaments and real estate, shall be levied on, seized, advertised, sold and conveyed by the said sheriff, in the manner directed by the act, entitled "An act making lands liable to be sold for the payment of debts;" for all which services, the said judge, sheriff, and clerk, shall be allowed the same fees as are by law allowed for the like services in other cases.

When execution shall be issued against the body of such collector or constable.

37. *And be it enacted*, That if the money arising from the sale of the lands, tenements, hereditaments and real estate, so levied upon and seized, be not sufficient to satisfy the sum mentioned in the said execution, with the costs, then it shall be the duty of the said clerk, to issue a *capias ad satisfaciendum* against such county collector, township collector, or constable.

Sheriff, how to be proceeded against, if

38. *And be it enacted*, That if the sheriff shall not execute the said warrant of distress agreeably to this act, or shall not pay

the money therein directed to be made, within ninety days after receiving such warrant, he shall, for every offence, forfeit and pay one hundred dollars, to be recovered, with costs, by action of debt, by the treasurer, or the county or township collector, as the case may require, for the use of the state, and shall also be amerced by the court of common pleas of the county, to the amount of the sum in the said warrant mentioned, with interest and costs; which amercement shall have the force and effect of a judgment, whereon execution shall instantly, and without any further proceedings, be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the sheriff so amerced.

1799.

he shall not execute the warrant agreeably to law.

39. *And be it enacted*, That if the sheriff shall not execute the writ of execution agreeably to this act, or shall not pay the money therein directed to be made, within ninety days after receiving such execution, he shall, for every offence, forfeit and pay one hundred dollars, to be recovered, with costs, by action of debt, by the treasurer, or the county or township collector, as the case may require, for the use of the state; and shall also be amerced by the court, out of which such execution issued, to the amount of the sum in the said execution mentioned, with interest and costs; which amercement shall have the force and effect of a judgment, whereon execution shall instantly, and without any further proceedings, be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the sheriff so amerced.

Sheriff, how to be proceeded against, if he shall not execute the writ of execution agreeably to law.

40. *And be it enacted*, That every act and every clause of any act within the purview of this act, be, and they are hereby repealed; but such repeal shall not extend to or affect any assessment, tax, penalty, suit, judgment, warrant of distress, or writ of execution, made, arising, commenced, entered, or issued under any act or clause hereby repealed; but that the same shall be collected, prosecuted, enforced and proceeded upon, in the like manner as if this act had not been made.

Former acts repealed, but such repeal not to affect antecedent taxes, judgments, warrants and executions.

See the act designating taxable property, March 9, 1801.

AN ACT to describe, apprehend and punish disorderly persons.

PAT. 410.

Passed the 10th of June, 1799.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all paupers, who shall unlawfully return to the city or township, from which they were legally removed, without a certificate from the city or township to which they belong, or who shall leave their places of legal settlement; and all persons, who shall go about from door to door, or place themselves in streets, highways or passages, to beg, crave charity, or collect alms, or who shall wander abroad and lodge in taverns, inns, beer-houses, out-houses, houses of entertainment, market-houses, barns or other

Who shall be adjudged to be disorderly persons.

1789.

places, or in the open air, and not give a good account of themselves, or who shall wander abroad, and beg or solicit charity, under pretence of being or having been soldiers, mariners, or seafaring men, or of loss by fire, or other casualty, or of loss by the Indians, or by war, or other pretence or thing; and all persons who shall leave, or threaten to leave their families to be maintained by the city, township or county, or to become chargeable thereto, or who, not having sufficient property or means for their subsistence or support, shall live idle, or not engage in some honest employment, or not provide for themselves or families; and all persons who shall use, or pretend to use, or have any skill in physiognomy, palmistry, or like crafty science, or who shall pretend to tell destinies or fortunes; and all runaway servants or slaves, and all vagrants or vagabonds, common drunkards, common night-walkers, and common prostitutes, shall be deemed and adjudged to be disorderly persons.

Further description of disorderly persons.

2. *And whereas* divers ill disposed persons are frequently apprehended, having upon them implements for house-breaking, or offensive weapons, or are found in or upon houses, warehouses, stables, barns or out-houses, areas of houses, coach-houses, smoke-houses, enclosed yards, or gardens belonging to houses, with intent to commit theft, misdemeanors or other offences; and although their evil purposes are thereby manifested, the power of the justices of the peace to demand of them sureties for their good behaviour hath not been of sufficient effect to prevent them from carrying their evil purposes into execution; *Be it further enacted*, That if any person shall be apprehended, having upon him or her any picklock, key, crow, jack, bit, or other implement, with an intent to break and enter into any dwelling-house, ware-house, stable, barn, coach-house, smoke-house or out-house; or shall have upon him or her any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent to assault any person; or shall be found in or upon any dwelling-house, ware-house, stable, barn, coach-house, smoke-house or out-house, or in any enclosed yard or garden, or area belonging to any house, with an intent to steal any goods or chattels, then he or she shall be deemed and adjudged to be a disorderly person.

Disorderly persons may be apprehended without a warrant, and, on conviction, committed to the work-house.

3. *And be it enacted*, That it shall be the duty of every constable, and lawful for any other person, to apprehend, without warrant or process, any disorderly person of the description aforesaid, and to take him or her before any justice of the peace of the county, where apprehended; and it shall be the duty of the said justice to commit such disorderly person, when convicted before him, by the confession of the offender, or by the oath or affirmation of one or more witness or witnesses, to the work-house of the city, town or county, there to be kept at hard labor for any time not exceeding three calendar months.

Justices to issue process against disorderly persons.

4. *And be it enacted*, That it shall be the duty of every justice of the peace, of the proper county, to issue, on information, or his own view, his warrant or process to apprehend any disorderly person, within the intent and meaning of this act.

5. *And be it enacted*, That it shall be lawful for any two justices of the peace, at their discretion, to bind out the child of any beggar, vagrant, vagabond, common drunkard, or common prostitute, or of any person, who shall not provide for such child, as a servant or apprentice to any person, who may be willing to take such child, till the age of twenty-one years, if a male, or eighteen years, if a female, or for a less time.

1792.

Children of beggars, vagrants, &c. may be bound apprentices or servants.

AN ACT to abolish fines and common recoveries.

PAT. 411.

Passed the 12th of June, 1799.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That no fine or common recovery, to be entered, made, had or suffered in any court of record of this state, shall operate or be construed to be a conveyance or assurance of lands, tenements or hereditaments, or in any way to bar the issue in tail, or the reversioner or remainderman of their lawful claims and entries, any usage or custom to the contrary in anywise notwithstanding.

AN ACT respecting libels.

PAT. 411.

Passed the 12th of June, 1799.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That in any prosecution hereafter to be commenced in any of the courts of this state, for a libel, either against the government of this state, or any of the officers thereof, or against any other person, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence, in his defence, the truth of the matter charged in the indictment, any law, usage or custom to the contrary notwithstanding.

Truth of a libel may be given in evidence.

AN ACT to incorporate trustees of religious societies.

PAT. 412.

Passed the 12th of June, 1799.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every religious society or congregation of christians, entitled to protection in the free exercise of their religion, by the constitution and laws of this state, are hereby authorized to assemble at their usual place of meeting for public worship, at any time by them to be agreed upon, giving at least ten days notice of the time and purpose of assembling, by an advertisement set up in open view at or near such place of meeting, and, when so assembled, may, by plurality of voices of such of the said society

Religious societies may elect trustees, who shall be a body politic and corporate.

1799.

or congregation as are present, elect any number not exceeding seven, of the said society or congregation, to be trustees of the same; which said trustees and their successors in office are hereby constituted a body politic and corporate in law, by whatever name they shall assume, agreeably to the directions of this act.

Name of corporation to be certified and recorded.

2. *And be it enacted*, That the said trustees, when they take upon themselves a name, shall certify such name under their hands and seals, and transmit such certificate to the clerk of the court of common pleas of the county, whose duty it shall be instantly to record the same, for which he shall be entitled to receive one dollar; and thereupon the said trustees shall be known and distinguished in law by the name of incorporation so taken, certified and recorded.

Powers and privileges granted to the trustees.

3. *And be it enacted*, That the said trustees and their successors shall, by such name of incorporation, be able and capable to acquire, purchase, receive, have and hold any lands, tenements, hereditaments, legacies, donations, moneys, goods and chattels, in trust for the use of the said society or congregation, to an amount in value not exceeding two thousand dollars a year, and the same or any part thereof to sell, grant, assign, demise, alien and dispose of; to sue or be sued, implead or be impleaded, in any court of law or equity; to make and use a common seal, and the same to alter and renew at their pleasure.

Line of succession, how to be perpetuated.

4. *And be it enacted*, That for perpetuating a line of succession in the trustees of every religious society or congregation, it shall and may be lawful for the members of the said society or congregation to assemble at any time they may think proper, giving notice thereof as herein before is directed, for the election of the first trustees, or for the election of any other trustee or trustees, in the stead of those or any of those before elected, in case they see cause for the removal of any of the said trustees, provided such removal shall not be in less than one year after his or their election into office; and also to fill up the vacancy, which may be occasioned by the death or resignation of any trustee, or his moving out of the limits of the said society or congregation.

Trustees to take certain oaths.

5. *And be it enacted*, That every such trustee shall, before he enters upon the duties of his office, take and subscribe, before a justice of the peace of the county, in which he resides, the oath to support the constitution of the United States, the oath of allegiance prescribed by law, and an oath for the faithful execution of the trust reposed in him, according to the best of his abilities and understanding.

The corporation may elect a president: his powers and duties.

6. *And be it enacted*, That such corporation may elect, annually, or oftener, if necessary or expedient, one of their own members to be their president, who shall keep the minutes, and enter the orders, acts and proceedings of the corporation, in a book to be kept for that purpose; who shall have the custody of the common seal, and the papers, deeds, writings, documents and books of or relating to the said corporation; and who is hereby empowered to convene the said corporation, as occasion may require; and in case of his absence, sickness, death, resig-

nation, refusal to act, or moving out of the limits of the said religious society or congregation, then the said office of president shall devolve on the senior trustee, for the time being, who shall occupy the same until the return or recovery of the president, or the election of another.

7. *And be it enacted*, That upon application to the president, any member of the said religious society or congregation shall have free access to all the papers, deeds, writings, minutes, documents and books of or belonging to the said corporation.

Members of the society to have access to the papers and books of the corporation.

8. *And be it enacted*, That upon the death, resignation, removal, or expiration of the office of president, or election of a new one, the common seal, and all the minutes, papers, deeds, writings, documents and books of or belonging to such corporation, shall be delivered to the successor in office, on the oath of the preceding president, or in case of his death, on the oath of his executors or administrators, under such pecuniary penalty, as the said corporation shall have previously fixed and ordained, to be recovered, with costs, by action of debt, in the name and for the use of the said corporation.

On the death or removal of the president, papers and books to be delivered to his successor.

9. *And be it enacted*, That the proceedings, orders and acts of a majority of all the members of the said corporation, but not of a less number, shall be valid and effectual in law.

Acts of a majority of all the trustees to be valid.

10. *Provided always, and be it enacted*, That the preceding sections of this act shall comprehend or extend to no religious society or congregation, but such as do or shall consist of at least thirty families, who support the gospel, and stately assemble at one place of public worship: *Provided also*, That nothing herein before contained shall be construed to extend to or affect the reformed Dutch churches in this state.

The preceding sections of this act not to extend to societies of less than thirty families.

11. *Whereas* some religious societies have held property under charters of incorporation, granted by the government of Great-Britain, previous to the revolution, and doubts may arise whether such estate, so held, will descend and vest in the corporation created under the laws of this state; *Therefore, be it enacted*, That all the estate, real and personal, held in fee or otherwise, in consequence of any charter granted as aforesaid, shall be vested in and held by the corporation, that may have been created in the place thereof, in consequence of the act passed the sixth day of March, in the year of our Lord, seventeen hundred and eighty-six, or the supplement thereto, passed the twenty-fifth day of November, in the year seventeen hundred and eighty-nine, although no transfer of such property shall have been made, by the trustees incorporated by such charter, to the trustees of the corporation created under the said laws, any thing in such charter or in any law to the contrary notwithstanding.

Right of property under charter granted by the British government, confirmed.

12. *Whereas* it is represented, that according to the constitution, usages and customs of the reformed Dutch churches, the ministers, elders and deacons thereof, for the time being, have the management of the temporalities of the said churches; that several charters have been heretofore granted to incorporate such ministers, elders and deacons for the purposes aforesaid; that

1782.

Ministers, elders and deacons of the reformed Dutch congregations, to be trustees and a body politic.

Name of such corporation to be certified and recorded.

Powers and privileges granted to the said trustees.

The reformed Dutch churches may renounce or forego their former charters, and avail themselves of this act.

some of the said churches have been incorporated together by charter, holding lands and tenements in common, which have since separated and divided by common consent and now desire hold each its share or part in severalty; and that the said churches cannot avail themselves of the preceding sections of this act, because, they prescribe a mode of electing trustees, repugnant to the constitution, usages and customs of the said churches; and whereas the legislature is willing to grant relief in the premises, and to communicate equal privileges to every denomination of christians; *Be it therefore enacted*, That the minister or ministers, elders and deacons, for the time being, or if there be no minister or ministers, the elders and deacons, for the time being, of every reformed Dutch congregation, shall be trustees of the same, and a body politic and corporate in law, by such name as the said trustees shall assume, in manner herein after directed.

13. *And be it enacted*, That the said trustees, when they take upon themselves a name, shall certify such name under their hands and seals, and transmit such certificate to the clerk of the court of common pleas of the county, whose duty it shall be instantly to record the same, for which he shall be entitled to receive one dollar; and thereupon the said trustees shall be known and distinguished in law by the name of incorporation so taken, certified and recorded.

14. *And be it enacted*, That the said trustees of such reformed Dutch congregation shall, by such name, be able and capable to acquire, purchase, receive, have and hold any lands, tenements, hereditaments, legacies, donations, moneys, goods and chattels, in trust for the use of the said congregation, to any amount in value not exceeding two thousand dollars a year, and the same or any part thereof to sell, grant, assign, demise, alien or dispose of; to sue or be sued, implead or be impleaded, in any court of law or equity; to make and use a common seal, and the same to alter and renew at their pleasure. But no deed or instrument of conveyance for any lands, tenements, hereditaments or real estate, shall be good and effectual in law, unless it be sealed with the common seal, and signed by a majority of the members of the said corporation.

15. *And whereas* some of the said reformed Dutch congregations, which have heretofore been incorporated by charter or otherwise, may see cause to renounce or forego such instrument or act of incorporation, and avail themselves of this law; *Be it therefore enacted*, That it shall be lawful for the trustees of any reformed Dutch congregation, by whatever name incorporated, to renounce or forego such charter or act of incorporation and name, by writing under their hands and seals, and recorded as aforesaid; upon condition, that the minister, elders and deacons, or elders and deacons, as the case may require, of such congregation, shall incorporate themselves pursuant to the directions of this act; and that upon such incorporation and recording of the said writing, their former incorporation and body politic shall cease and be dissolved, and all the estate, real and personal, held by virtue of the same, shall pass to and be vested in the body

politic and corporate formed agreeably to this act, who shall be deemed to be the legal successors in office to the former body politic and corporate, and liable to their debts.

1799.

16. *And be it enacted*, That where two or more of the said reformed Dutch congregations, which have been united in one body politic, shall be disunited by renouncing or foregoing their former incorporation, and shall, each or any of them, become incorporated under this act, then such lands, tenements, hereditaments, moneys, goods and chattels, as of right belong to each of the said congregations, separately considered, shall be and remain in the peaceable and quiet possession of the body politic and corporate of that particular church, to which such real and personal estate doth of right belong; and all real and personal property acquired by such congregations, during their union as a body politic, shall be divided between such congregations, in such manner as shall be agreed upon by the trustees of the said corporation.

When and how the property of two or more of the said congregations, united in one corporation, shall be divided, when such corporation is dissolved.

17. *And be it enacted*, That if the trustees of any two or more of the said reformed Dutch congregations, by whatever name known and distinguished in their respective charters or acts of incorporation, shall see cause to renounce or forego their separate corporations, and be formed into one joint corporation and body politic, it shall and may be lawful for such trustees, by mutual consent, to renounce or forego their separate charters or acts of incorporation, by writing under their hands and seals, which shall signify also their intention to become one joint corporation and body politic, and shall be recorded as aforesaid; upon condition, that the said trustees shall form themselves into one corporation, agreeably to the directions of this act; and that upon recording the said writing, and after such joint incorporation under this act, their former separate corporations and bodies politic shall cease and be dissolved, and all the estate, real and personal, held by them separately, shall pass to and be vested in the trustees of such joint corporation and body politic, who shall be deemed to be the legal successors in office of the former separate bodies politic, and liable to their debts.

Two or more of the said reformed Dutch congregations may renounce their former charters, and be constituted into one body politic.

18. *And be it enacted*, That, for perpetuating a line of succession in the trustees of every reformed Dutch congregation, the minister or ministers, elders and deacons of such congregation, as shall take and record a name as aforesaid, shall be the first trustees of the same, and shall continue in office until others shall be duly elected, appointed or called, according to the manner, usages and customs of the reformed Dutch church; and every minister, elder or deacon, so constituted a trustee, shall continue in office until another person shall, in like manner, be elected, appointed or called in his stead, and so on as often as occasion may require; and if any dispute shall arise respecting the validity of the election, appointment, or call of the said trustees, the same shall be referred, for final decision, to the superior church judicature, to which such congregation is subordinate, according to the customs and constitution of the said reformed Dutch church.

Line of succession, how to be perpetuated.

1799.

Oaths to be taken by the said trustees.

19. *And be it enacted*, That every such trustee shall, before he enters upon the duties of his office, take and subscribe before a justice of the peace of the county in which he resides, the oath to support the constitution of the United States, the oath of allegiance prescribed by law, and an oath for the faithful execution of the trust reposed in him, according to the best of his abilities and understanding.

What person shall be president of the corporation; his powers and duties.

20. *And be it enacted*, That the person, who is, according to the usage and custom of the reformed Dutch church, ordinarily to preside at the meeting of the minister, elders and deacons of the said congregation, shall be president of the said corporation; who is hereby empowered to convene the said corporation as occasion may require, and, at the request of any two or more of the members, it is hereby made his duty to convene the same, in such manner, and under such regulations, as the said corporation shall from time to time direct.

What person shall keep the books and papers of the corporation.

21. *And be it enacted*, That the said corporation may, from time to time, appoint some fit person belonging to the said congregation, who shall have the custody of the common seal, and the papers, deeds, writings, documents and books of or relating to the said corporation, who shall keep the minutes, and enter the orders, acts and proceedings of the corporation, in a book to be kept for the purpose, and who shall deliver the said seal, minutes, papers, deeds, writings, documents and books, when demanded, to the said corporation, under such pecuniary penalty as they shall have previously fixed and ordained.

What persons shall have free access to the said books and papers.

22. *And be it enacted*, That every person of the said congregation, who regularly contributes to the support of the gospel in the said congregation, shall have free access to all the papers, deeds, writings, minutes, documents and books of or belonging to the said corporation.

Acts of a majority of all the trustees to be valid.

23. *And be it enacted*, That the proceedings, orders and acts of a majority of all the members of the said corporation, but not of a less number, shall be valid and effectual in law.

When a member shall not be allowed to vote.

24. *And be it enacted*, That no member of the said corporation shall be allowed to vote in any matter or thing, which immediately affects himself, his private interest or emolument.

To what amount antecedent religious corporations may hold property.

25. *And be it enacted*, That it shall be lawful for every religious corporation, which has been created by act of the legislature, or by letters patent, to acquire, purchase, receive, have and hold any lands, tenements, hereditaments, legacies, donations, moneys, goods and chattels, of the yearly value of two thousand dollars, although such act or letters patent contain a restrictive clause, limiting the annual revenue and income of the said corporation to a less sum.

Former acts repealed.

26. *And be it enacted*, That the act, entitled "An act to incorporate certain persons as trustees in every religious society or congregation in this state, for transacting the temporal concerns thereof," passed the sixth day of March, in the year of our Lord, one thousand seven hundred and eighty-six, and the supplement thereto, passed the twenty-fifth day of November, in the year of

our Lord, one thousand seven hundred and eighty-nine, be, and they are hereby repealed. *Provided*, That such repeal shall not annul, revoke or affect any incorporation formed by virtue of the said statutes, or either of them, or any order, act, proceeding, matter or thing done or to be done by such body politic; but that the said body politic shall have the same powers, be in the same state, and continue to act and exercise their corporate functions in the same manner as if this act had not been made.

1799.

AN ACT to regulate fees.

PAT. 418.

Passed the 13th of June, 1799.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That a sheet or folio shall contain one hundred words, and in all cases, where an entry of any writing or copy is to be paid for, the said sheet shall consist of one hundred words.

Legal sheet to contain 100 words.

2. And be it enacted, That the officers and persons, in this act named, shall be entitled to demand and receive, for the services herein after mentioned, the fees thereto respectively annexed, and no more.

Fees allowed to be taken by this act.

THE GOVERNOR.

	Dols.	Cts.	
For a license of marriage, hand and seal,	1	34	Fees of the governor.
the seal to every probate of a will or letter of administration,			
every writ of error, or other original writ,	1	20	
the first rule in every cause in error,	0	40	
every judgment in a cause in error,	1	0	
a license to an attorney and solicitor,	1	0	
a license to a counsellor at law,	3	0	
the seal to a sheriff's commission,	3	0	
the seal to a commission for a clerk of any court,	1	0	
the seal to every certificate, exemplification or other paper,	1	20	

THE COURT OF ERRORS.*

The Clerk's Fees.

For reading and filing the writ, return and record,	0	34	Fees in the court of errors.
filing every affidavit or other proceeding,	0	12	
entering every rule,	0	20	
every certified copy of a rule,	0	20	
entering every appearance,	0	12	
entering every judgment,	0	25	
entering every judgment and remittitur on the roll for each sheet,	0	12	
the seal to any record or process,	0	50	

* See act to regulate fees, &c., passed 16th February, 1816.

Dols. Cts.

1799.	For copies of records, pleadings and other proceedings, for each sheet,	0 9
	taxing a bill of costs,	0 50

THE FEES OF THE SECRETARY OF THIS STATE.

Fees of the secretary of state.	For every order, warrant, or certificate under the governor's hand and seal, countersigned by the secretary,	0 40
	entering deeds and other writings on the record, for each sheet,	0 *5
* Sir, by act, November 30, 1861.	every copy of the same, and other papers in his office, for every sheet,	0 *5
	a commission for a sheriff,	1 34
	a commission for a clerk of any court,	1 34
	searching the records for every book,	0 7
	a license to an attorney and solicitor,	3 0
	a license to a counsellor at law,	3 0
	and for every other commission to be paid by the treasurer of this state,	0 25
	drawing a certificate to pass under the great seal, or any other seal, and engrossing the same, for each sheet,	0 12

FEES OF THE PREROGATIVE OFFICE.

Fees of the prerogative of fice.	For engrossing a last testament and will and probate, for each sheet,	0 12
	engrossing letters of administration, for each sheet,	0 12
	recording last testaments and wills, and letters of administration, for each sheet,	0 8
	filing every last testament and will,	0 10
	recording inventory for each sheet,	0 8
	filing inventory,	0 8
	every bond taken in the office,	0 34
	every marriage license,	1 20
	entering and filing caveat,	0 20
	searching the records for any one year,	0 12

FEES OF THE PREROGATIVE COURT.*

The Ordinary.

Fees of the prerogative court.	For making every order or rule,	1 0
Of ordinary.	the seal to citation, monition or process,	0 50
	hearing and determining every appeal,	4 0

The Register.

Fees of regis- ter.	For drawing citation, monition or process,	1 0
	entering every order or rule of court,	0 20
	copy thereof,	0 14
	entering and filing appeal,	0 20

* See act to regulate fees, &c., passed 16th Feb. 1815.

For filing every petition, pleading or other paper,	Dols.	Cts.	
reading the same,	0	14	1799.
	0	14	

IN THE COURT OF CHANCERY.

The Chancellor's Fees.

For the seal to every common writ,	0	40	Fees in the court of chancery.
every opinion or order on a petition or motion controverted and argued in court,	1	34	
every order on petition out of court,	0	66	
every common motion,	0	75	
every dismissal of a bill for want of prosecution,	1	34	
every decree,	2	50	Chancellor's fees.

The Fees of Masters.

For every summons,	0	40	Master's fees.
copy of all charges and discharges brought before the master, and scheduling writings, for each sheet,	0	10	
every report in pursuance of an order made upon hearing a cause,	1	34	
every other report made upon petition or motion only,	0	67	
drawing every report, for each sheet,	0	14	
swearing a defendant to an answer or plea, or taking an affidavit,	0	20	

Clerk's Fees.

For entering action,	0	20	Clerk's fees.
entering appearance of the defendant,	0	20	
filing every bill, answer, plea, replication and other pleading, and every affidavit, petition, report, examination, deposition or other paper,	0	12	
copy of the same, for each sheet,	0	8	
entering rule to answer, reply, or other rule in a cause,	0	20	
copy thereof,	0	12	
searching for any bill, answer, pleading or other paper, for every year, in which such search is made,	0	8	
entry of every dismissal,	0	50	
every commission to examine witnesses,	1	34	
entering a cause for argument or hearing,	0	50	
swearing every witness,	0	8	
attending court on argument or hearing with the bill, answer, pleadings and other documents and papers filed in the cause,	0	50	
reading every bill, answer, or other pleading, document, or paper on argument or hearing,	0	20	
money brought into court, by order, and lodged with him, after the rate of one cent, a dollar.			

Examiner's Fees.

For taking the examination of every witness, for each sheet,	0	20	Examiner's fees.
certifying every exhibit shewn to a witness,	0	30	

1799.

Fees of Solicitor and Counsel.

Fees of solicitor and counsel.

For a retaining fee,	2 0
drawing every bill, answer, plea, demurrer, replication and other pleading, and drawing exceptions and other proceedings, for each sheet,	0 20
engrossing the same, for each sheet,	0 10
drawing and engrossing every subpoena or attachment,	0 70
drawing other process and writs, for each sheet,	0 20
drawing notice of every motion, copy and service, every motion of course,	0 40
(but no motion to be allowed for common process, nor for rules to answer, reply or the like, which are to be entered of course by the clerk.)	0 30
every special motion,	1 50
counsel arguing every plea or demurrer, or upon petition, or exceptions, or other special matter,	3 0
counsel arguing upon the final hearing,	4 0
(but no costs to be taxed for more than one counsel in a cause.)	
drawing every decree, for each sheet,	0 20
engrossing the same, for each sheet,	0 12
copy of every bill of costs to be taxed before a decree,	0 20
copy of every bill of costs to be taxed after a decree,	0 30
every term fee,	0 80
(but no more than three term fees to be allowed in any cause.)	

Sheriff's Fees.

Sheriff's fees.

To be the same as for the like services in the supreme court.

Fees of the Sergeant at Arms in the Court of Chancery.

Fees of sergeant at arms.

For attending the court at each of its stated terms, for every day, to be paid by the treasurer,	1 0
attending every special session for the argument of any plea or demurrer in any cause or causes, to be paid by the party or parties applying for such special session, and to be taxed to him or them in his or their bill of costs, if costs shall be adjudged,	1 0

IN THE SUPREME COURT.

*Fees to be divided among the judges, who are attending court, when the service is performed.*Fees in the supreme court.
Judges' fees in court.

For a license to an attorney and solicitor,	3 0
a license to a counsel,	3 0
the first motion in every cause,	0 80
the trial or argument of every cause,	1 0
assessment of damages,	1 0
every recognizance,	0 40
every rule in a cause,	0 34

		Dols. Cts.	1799.
<i>Fees to be paid to the Judge who shall perform the service.</i>			
For drawing order for bail,	0 40	Judges' fees out of court.	
taking bail,	0 40		
every justification or disallowance of bail,	0 40		
taking every affidavit,	0 14		
allowing every writ of error, habeas corpus, certiorari, prohibition, procedendo, supersedeas, or other writ, where an allowance is necessary,	0 50		
making a return of a writ of error, examining and annexing a transcript of the record thereto, and delivering the same to the court of appeals,	3 0		
signing and returning postea,	1 0		
order of commitment of every person surrendered by or in discharge of his bail,	0 40		
<i>Counsel's Fees in the Court of Appeals and Supreme Court.</i>			
For trial of a cause, or arguing a demurrer or special verdict,	3 0	Counsel's fees.	
(but no costs to be taxed for more than one counsel on each side.)			
attending the court of appeals to make or oppose a motion,	1 50		
<i>Fees of Attorneys at Law.</i>			
For a retaining fee in each cause, except in ejectment,	1 0	Attorney's fees.	
drawing every summons, capias or other mesne process,	0 34		
drawing a warrant of attorney,	0 10		
copy thereof,	0 7		
drawing every affidavit,	0 14		
copy of the same, when necessary,	0 7		
drawing special bail-piece and attending the judge,	0 40		
drawing notice of justification of bail,	0 30		
copy and service thereof,	0 20		
every declaration, plea or other pleading, not exceeding three sheets,	0 70		
copy thereof, when necessary,	0 30		
every writ of error, dower, replevin, habeas corpus, certiorari, prohibition, procedendo, scire facias, venire, or distringas,	0 60		
every declaration, plea, replication, or other pleading, exceeding three sheets, for every sheet,	0 20		
copy thereof,	0 12		
copy of bond, note of hand, account or other deed or writing, for every sheet,	0 9		
every special motion, not exceeding two in any cause,	0 80		
every subpoena,	0 34		
every ticket for the same,	0 10		
drawing notice of every motion, where notice of the same is necessary,	0 25		
copy and service thereof,	0 20		
attendance on striking a jury,	1 00		

		Dols.	Cts.
1799.	For drawing notice of trial,	0	25
	copy and service thereof,	0	20
	drawing every breviat,	0	40
	copy thereof,	0	14
	arguing every special motion,	1	25
	arguing demurrer or special verdict, or trying every		
	cause, except a cause in ejectment,	2	0
	drawing notice of taxing costs, where necessary,	0	25
	copy and service thereof,	0	20
	drawing capias ad satisfaciendum,	0	50
	drawing execution against goods and chattels,	0	50
	drawing execution against goods and lands,	0	70
	term fee,	0	80
	(but no more than two term fees to be allowed, where		
	judgment is entered by default, nor more than three		
	in any case.)		
	drawing declaration in ejectment,	1	50
	retaining fee in ejectment,	1	50
	every attendance before the court of errors, in order		
	to make or oppose a motion,	1	0
	<i>Fees of the Attorney-General.</i>		
Fees of attor- ney-general.	For every indictment to which the defendant or prisoner		
	pleads guilty,	10	0
	every indictment to which the defendant or prisoner		
	pleads not guilty, and afterwards retracts his plea,		
	and pleads guilty,	12	0
	every indictment to which the defendant or prisoner		
	pleads not guilty, is tried and found guilty,	15	0
	The above sums to be in full of the taxable costs and		
	charges of the attorney-general. But no costs shall be		
	allowed, where the indictment is quashed, the defend-		
	ant is acquitted, or the judgment is arrested.		
	<i>Fees of the Clerk of the Supreme Court in civil cases.</i>		
Fees of clerk of supreme court in civil cases.	For drawing every summons, capias, subpoena, or other		
	process, if he shall do it,	0	34
	sealing every writ,	0	14
	entering every action,	0	10
	entering an appearance or default,	0	14
	entering the return of a writ,	0	14
	entering every rule of court,	0	16
	a certified copy thereof, when required,	0	12
	filing every writ, declaration, pleading, roll, or other		
	paper,	0	8
	entering every retraxit, discontinuance, or nonsuit,	0	15
	reading every petition and entering order thereon,	0	20
	every copy of such order,	0	12
	searching the records,	0	20
	calling and swearing every jury,	0	40
	swearing each witness,	0	8
	reading every record, deed or writing given in evi-		
	dence,	0	14

	Dols.	Cts.	
For swearing a constable to attend a jury,	0	8	1799.
taking a general verdict, and entering the same,	0	20	
entering judgment,	0	12	
entering every special verdict or demurrer to evidence, for each sheet,	0	12	
copies of writs, declarations, pleadings, special verdicts, demurrers to evidence, records and other papers, for each sheet,	0	8	
reading and entering a postea,	0	20	
entering satisfaction on record,	0	20	
entering confession of lease, entry and ouster,	0	20	
<i>Fees of the Clerk of the Supreme Court, and of the Courts of Oyer and Terminer and General Gaol Delivery, in criminal cases.</i>			
For entering every indictment and filing the same,	0	20	<i>Fees of clerk of supreme court, and of the courts of oyer and terminer &c. in criminal cases.</i>
every process, subpœna or other writ,	0	34	
sealing the same,	0	14	
every ticket for a subpœna,	0	10	
entering an appearance or default,	0	14	
entering a recognizance taken in court,	0	20	
discharging by proclamation, and entering the same,	0	20	
entering and filing a plea,	0	14	
entering a relinquishment of a plea,	0	8	
entering an order or rule of court,	0	16	
a certified copy thereof, when required,	0	12	
calling and swearing every jury,	0	40	
swearing each witness,	0	8	
reading every record, deed or writing given in evidence,	0	14	
swearing constable to attend jury,	0	8	
taking and entering a general verdict,	0	20	
entering every special verdict, for each sheet,	0	12	
entering judgment,	0	12	
copies of writs, indictments, pleadings, special verdicts and other papers, for each sheet,	0	8	
<i>(but no costs to be allowed, where the indictment is quashed, judgment arrested, or the defendant acquitted, or discharged for want of prosecution.)</i>			
<i>Fees of the Clerks of the Circuit Courts.</i>			
For entering every action,	0	10	<i>Clerk of circuits' fees.</i>
filing every nisi prius record,	0	10	
entering every nonsuit and rule,	0	10	
a copy of a rule,	0	8	
filing every venire, or distringas, and return,	0	10	
entering every appearance or default,	0	10	
entering confession of lease, entry and ouster,	0	16	
calling and swearing a jury,	0	30	
swearing each witness,	0	8	
reading every record, deed or writing given in evidence,	0	12	
filing every bill of exceptions,	0	10	

		Dols. Cts.
1799.	For a copy thereof, for each sheet,	0 8
	swearing a constable to attend a jury,	0 8
	taking and entering a general verdict,	0 20
	entering in the minutes every special verdict or demurrer to evidence, for each sheet,	0 12
	copy thereof, for each sheet,	0 8
	drawing postea, when a general verdict is found,	0 70
	drawing postea in case of a special verdict or demurrer to evidence, for each sheet,	0 8
<i>Fees of Sheriffs.</i>		
Sheriff's fees.	For serving an attachment against the estate of an absconding or absent debtor,	2 50
	serving a capias ad respondendum or other mesne process,	1 50
	serving a capias ad satisfaciendum,	1 50
	returning every writ,	0 12
	mileage on serving every writ, two cents, out and in, for every mile, to be computed from the court-house; but the whole mileage shall in no case exceed two dollars. <i>Provided</i> , That no mileage shall be allowed on a writ of fieri facias, partition, possession, restitution, seizin, venire facias, distringas, or inquiry.	
	serving every declaration in trespass and ejectment, and mileage as aforesaid,	2 0
	taking every bail-bond in the supreme court,	0 70
	taking every bail-bond in the court of common pleas,	0 35
	serving every venire facias or distringas and return, producing the list of freeholders and attending the judge within the county, two dollars and seventy cents; and, if out of the county, twenty cents for every mile, from the court-house of his county, to the place where he shall attend the judge, in addition to the said fee of two dollars and seventy cents.	1 0
	summoning a special jury,	2 70
	attending a jury of view, each day,	1 50
	executing every writ of partition, swearing the jury, and making return of the writ, three dollars; and if the execution of the said writ shall occupy more time than one day, then, in addition to the above sum, he shall be allowed after the rate of one dollar and fifty cents a day, for every day more that he shall attend the said jury.	
	executing every writ of possession and return,	2 0
	executing every writ of inquiry, summoning the jury, and returning the inquisition,	2 0
	serving every execution, if it be of or under one hundred dollars, one dollar; and if it be above that sum, two cents on every dollar, to be com-	

	Dols.	Cts.	
puted on the amount of the debt or damages paid or secured to the plaintiff, by sale or otherwise.			1799.
For advertising the property for sale, provided the sheriff or deputy sheriff attend in pursuance of the advertisement,	3	50	
the cryer of the vendue, when the sheriff proceeds to sell, for every day he shall be actually employed in such sale,	1	0	
every adjournment of a sale,	1	0	
(but no more than one adjournment shall be allowed; and if the sheriff shall have several executions against a defendant, he shall only be allowed for advertising, attending, and adjourning, as if he had but one execution.)			
a deed to a purchaser of real property,	2	50	
every person committed to prison,	0	25	
discharging every person from prison,	0	12	
victualling a prisoner, for every day,	0	10	
attending with a prisoner before a judge, on his being surrendered by or in discharge of his bail, and receiving him into custody,	1	50	
(that the sheriff shall file his taxed bill of costs with the clerk of the court, out of which execution issued, at the term next after the sale of the property, or, in default thereof, he shall not be entitled to any costs; and if any sheriff shall charge in such bill of costs, for services not done, or not allowed by law, or shall take any greater fee or reward for any service by him done, than is or shall be allowed by law, he shall pay to the party aggrieved, thirty dollars, to be recovered by action of debt, with costs.)			

IN THE COURTS OF COMMON PLEAS.

Fees to be divided among the Judges, who are attending court, when the service is performed.

For the first motion in every cause,	0	50	Fees in the
every rule in a cause,	0	20	common pleas
the trial or argument of every cause,	0	50	Judges' fees in
assessment of damages,	0	75	court.
every writ of error or habeas corpus allowed and entered,	0	20	

Fees to be paid to the Judge who performs the service.

For drawing order for bail,	0	25	Judges' fees
taking bail,	0	25	out of court.
every justification or disallowance of bail,	0	25	
taking every affidavit,	0	10	
order of commitment of every person surrendered by or in discharge of his bail,	0	20	

1799.

IN THE COURTS OF GENERAL QUARTER-SESSIONS.

Fees to be divided among the Justices, who are attending court, when the service is performed.

Fees in the
quarter-ses-
sions.
Justices' fees
in court.

For the first motion in a cause,	0 50
every rule in a cause,	0 20
the trial or argument of every cause,	0 50
every recognizance,	0 25

Fees to be paid to the Justice of the peace, who performs the service, where he is entitled to fees, and they are not otherwise ascertained by law.

Justices' fees
out of court.

For every recognizance,	0 25
a pass,	0 20
a mittimus,	0 25
taking examinations, for each sheet,	0 14
every oath or attestation,	0 5
a warrant against a person for a breach of the peace, or a misdemeanor,	0 25
a summons on a penal law,	0 13
drawing a conviction,	0 25
a warrant to levy a penalty,	0 25

Fees of the
clerks of the
pleas.

Fees of the Clerks of the Courts of Common Pleas.

For drawing every summons, capias or other process, if he shall do it,	0 30
sealing every writ,	0 14
entering every action,	0 8
entering an appearance or default,	0 10
entering the return of a writ,	0 10
entering every rule of court,	0 10
a certified copy thereof, when required,	0 8
filing every writ, declaration, pleading, roll or other paper,	0 8
entering every retraxit, discontinuance or nonsuit,	0 8
reading every petition and entering order thereon,	0 15
every copy of such order,	0 10
searching the records,	0 12
calling and swearing the jury,	0 20
swearing each witness,	0 6
reading every record, deed or writing given in evi- dence,	0 10
swearing constable to attend a jury,	0 6
taking and entering a general verdict,	0 8
entering judgment,	0 8
entering every special verdict or demurrer to evi- dence, for each sheet,	0 10
copies of writs, declarations, pleadings, special ver- dicts, records and other papers, for each sheet,	0 8
entering satisfaction on record	0 14

	Dols.	Cts.	
For reading and entering every allowance of a writ of error, habeas corpus or other writ, requiring an allowance and returning the same,			1799.
entering deeds and conveyances on the record, for each sheet,	0	50	
searching the records of such deeds,	0	5	
	0	7	

Fees of the Clerks of the Courts of General Quarter-Sessions.

For entering and filing an indictment,	0	16	Fees of the clerk of the sessions.
every process, subpoena or other writ,	0	25	
sealing the same,	0	14	
every ticket for a subpoena,	0	9	
entering an appearance or default,	0	10	
entering a recognizance taken in court,	0	15	
entering and filing a plea,	0	8	
discharging by proclamation and entering the same,	0	15	
entering the relinquishment of a plea,	0	8	
reading every petition and entering order thereon,	0	15	
copy of such order,	0	10	
every rule or order of court,	0	10	
copy of such rule or order,	0	8	
searching the records,	0	12	
calling and swearing the jury,	0	20	
swearing each witness,	0	6	
reading every record or other writing given in evidence,	0	10	
swearing constable to attend a jury,	0	6	
taking and entering a general verdict,	0	8	
entering judgment,	0	8	
entering every special verdict, for each sheet,	0	10	
copies of writs, indictments, pleadings, special verdicts and other papers, for each sheet,	0	8	
entering the allowance of every habeas corpus, writ of error or certiorari, and returning the same,	0	50	
(but no costs to be allowed where the indictment is quashed, judgment arrested, or the defendant acquitted, or discharged for want of prosecution.)			

FEES OF CORONERS.

For the view of a dead body,	2	0	Coroner's fees.
a precept to summon a jury,	0	50	
swearing the jury,	0	25	
swearing every witness,	0	6	
drawing and returning the inquisition,	1	0	
taking examinations in writing, for each sheet,	0	14	
burying a dead body,	4	0	
(which fees the collector of the county is hereby authorized and required to pay, on being taxed by the clerk of the court of common pleas of the county; and the said county collector shall be allowed the same, in the settlement of his accounts with the treasurer of the state.)			

1799. For serving writs, advertising property, and making deeds, the same fees as are by law allowed to sheriffs for the same services, and under the like restrictions and regulations.

CRYER'S FEES.

Cryer's fees.	For calling every action,	0	9
	calling a jury,	0	12
	swearing a witness,	0	6
	calling the plaintiff on a nonsuit,	0	8
	calling the defendant on a default,	0	8
	calling the defendant on a recognizance,	0	8
	calling the bail on a recognizance,	0	8
	making proclamation to discharge a person,	0	8

FEES OF JURORS.

Jurors' fees.	For every juror for each action, on which he is sworn or affirmed, including a writ of inquiry, coroner's inquest, and indictment,	0	25
	every juror who appears in a cause, but is not sworn or affirmed,	0	12
	every juror going to, attending, and returning, from a view, for each day,	1	0
	every juror from a foreign county, going to, attending at, and returning from court, being sworn or affirmed in a cause, for each day,	1	0
	every such juror, who attends, and is not sworn or affirmed, to be allowed for going to, attending at, and returning from court, after the rate of fifty cents, for each day.		

FEES OF WITNESSES, &c.

Witnesses' fees.	For every witness attending a court, or commissioners, or referees, or arbitrators, in his own county, for each day,	0	50
	every witness from a foreign county, attending a court, or commissioners, or referees, or arbitrators, after the rate of one dollar a day, in which shall be included his or her going to and returning from the same, allowing one day for every thirty miles from and to his or her place of residence.		
Fees of surveyors, &c. on a view.	the secretary of this state, or any clerk attending on subpoena, with wills, records, or other written evidence, after the rate of one dollar a day, and mileage as aforesaid.		
	every surveyor, for his actual service on a view, for each day,	2	0
	every surveyor, for his going to and returning from a view, for each day,	1	0
	every chain-bearer, on a view, for each day,	0	70
	serving a subpoena on each witness,	0	15

Fees of the Constable, where he is entitled to fees, and they are not otherwise ascertained by law.

1799.

The constable shall, for the same services, be allowed the same fees, as are established by the act constituting courts for the trial of small causes; and also, seventy-five cents per day for every day he shall attend at the supreme court, circuit court, courts of oyer and terminer and general gaol delivery, courts of common pleas, and general quarter-sessions of the peace, in his county, to be paid by the county collector of the same, on his producing a certificate from the presiding judge or justice of such court, setting forth the number of days he may have so attended. *Provided*, That when two or more courts are held at the same time, the constable shall receive no more than seventy-five cents per day, for his attendance on all the said courts.

Constable's fees.

3. *And be it enacted*, That the clerk of every court in this state shall be, and he hereby is authorized and directed to tax and subscribe his name to all bills of costs, presented to him for that purpose, arising in any cause instituted and determined in the court whereof he is clerk, agreeably to the fees in this act allowed and specified; and shall in no case allow any item or charge, unless the service, in his opinion, shall have been necessary in regularly conducting the cause, and shall have actually been performed, and shall so appear on the minutes of the court.

Clerks of the respective courts to tax bills of costs.

4. *And be it enacted*, That the said clerk shall be entitled to charge, for every bill of costs so by him taxed, *twenty-five cents*;* and if he shall allow any item or charge in any bill of costs, which shall not appear of record in the minutes of the court, or shall allow more for any service done than is allowed by law, he shall, for every offence, forfeit and pay to the party aggrieved the sum of thirty dollars, to be recovered, with costs, by action of debt, in any court having cognizance of that sum.

Fee for taxation.

* Fifty cents, by act, Nov. 30, 1801.

Penalty for allowing unlawful charges.

5. *And be it enacted*, That if any person shall think himself or herself aggrieved, by any bill of costs being taxed at a greater sum than is by law allowed, such person may apply to the court, in which the action depended, at the next term after such bill of costs is so taxed, and payment thereon demanded; and the said court is hereby required to examine and retax the same, according to law; and if the said court shall find any charge allowed, for services not actually done, or any item charged higher than is by law allowed, then the said clerk shall, over and above the fine herein before imposed on him, pay back the fee received for taxing the said bill, and pay the court, for their trouble in retaxing the same, double the sum allowed him by law; but if the said court shall find the said bill to be taxed agreeably to the directions of this act, then the applicant shall pay the court for retaxing such bill, whose decision shall be final.

Courts, on application, to retax bills of costs.

6. *And be it enacted*, That the act, entitled "An act for the better enabling the judges and justices of this colony to ascertain

Former acts repealed.

1799.

and tax bills of costs, and for making provision, by law payment of the services of the several officers of the colt for preventing the said officers from taking exorbitant fees the eighteenth day of February, in the year of our Lord, one thousand seven hundred and forty-seven-eight; and the act, entitled "An act making provision for the wages of witnesses attending the supreme court and circuit courts in this state," passed the eleventh day of November, in the year of our Lord, one thousand seven hundred and ninety; and the act, entitled "An act for ascertaining the fees of sheriffs and coroners," passed the seventh day of February, in the year of our Lord, one thousand seven hundred and ninety-four; and the act, entitled "An act to ascertain, in certain cases, the fees of the secretary of the treasury," passed the twenty-first day of February, in the year of our Lord, one thousand seven hundred and ninety-four; and the act, entitled "An act to amend and sixteen sections of the act, entitled 'An act respecting coroners,'" passed the eighth day of March, in the year of our Lord, one thousand seven hundred and ninety-six; and the act, entitled "An act relative to proceedings in the courts of law," passed the ninth day of March, in the year of our Lord, one thousand seven hundred and ninety-seven; and the act, entitled "An act ascertaining costs in certain cases," passed the sixteenth day of March, in the year of our Lord, one thousand seven hundred and ninety-eight; and the ordinance, entitled "An ordinance for regulating and establishing the fees hereafter to be taken by the officers of the court of chancery of the province of New-Jersey," made by his excellency Jonathan Belcher, in council, the twenty-third day of November, in the year of our Lord, one thousand seven hundred and fifty-three; and all and every act and acts, and part and parts of any act or acts, coming within the purview of this act, be, and they hereby are repealed: *Provided always*, That for services rendered, antecedent to the passing of this act, the same fees shall be allowed, as if this act had not been made: *And provided also*, That this act shall not take effect until the first day of September next.

it not to af-
fect antece-
dent services.

AN ACT respecting the court of chancery.

T. 428.

Passed the 13th of June, 1799.

1. Repealed and supplied by act, February 29, 1820.

process and
acts to be con-
tinued, if the
court shall not

2. *And be it enacted*, That if the said court shall not sit or be opened at any of the said terms, whether stated or special, the writs and process then returnable, and the bills, suits, pleadings and proceedings depending before the said court, shall be continued of course till the next term, and so from term to term, until the court shall sit.

for what pur-
poses the court
shall be consid-
ered as al-
ways open.

3. *And be it enacted*, That the said court of chancery shall be considered as always open for the granting of injunctions, writs of habeas corpus to prevent the departure of defendants from the state,

and other writs, and process heretofore usually granted in vacation.

1799.

4. *And be it enacted*, That every subpoena, process of sequestration, writ of execution, or other writ or process shall be issued by a solicitor, or by the clerk, at the instance of the party, and before the service or execution thereof, shall be subscribed or endorsed with the name of the said solicitor, or party, and also signed and sealed by the said clerk.

Name of solicitor or party, and clerk, to be subscribed to process.

5. *And be it enacted*, That no subpoena or other process for appearance shall issue out of the court of chancery, except in cases to stay waste, until after the bill shall have been filed with the clerk of the court.

No process to issue until bill be filed, except in waste.

6. *And be it enacted*, That if the complainant reside out of this state, he shall, before the issuing of process to appear, cause a bond to be executed by at least one sufficient person, being a freeholder and resident within this state, to the defendant, in the penal sum of one hundred and fifty dollars, conditioned to prosecute the suit with effect, and to pay costs to the defendant, if he shall be entitled thereto, and to have the same filed with the clerk, or in default thereof, that the complainant's solicitor, who shall file the said bill and issue process thereon, shall be responsible to pay the defendant such costs, as he may be entitled to by the order of the court; and if the said bill and process be signed by the complainant, and not by any solicitor, then the said suit shall be stayed till such bond be filed, and if it be not filed by the time appointed by the court, the bill shall be dismissed, with costs.

Bond to be given for payment of costs, if the complainant reside out of this state.

7. *And be it enacted*, That it shall be the duty of the sheriff or coroner, as the case may require, of any county in this state, to whom any subpoena, order, attachment, process of sequestration, writ of execution, or other process, issuing out of the court of chancery, shall be directed, or delivered, to serve or execute the same, and to make return thereof at the time and place therein mentioned, which shall be filed by the clerk.

Sheriff or coroner to serve process issuing out of chancery.

8. *And be it enacted*, That every subpoena or process for appearance shall be served on the person to whom it is directed, or a copy thereof left at his dwelling-house, or usual place of abode, at least ten entire days prior to its return.

How subpoenas are to be served.

9. Repealed, and supplied by act, Feb. 29, 1820.

10. *And be it enacted*, That no injunction shall be granted to stay proceedings in any suit at law, before a verdict or judgment, unless the chancellor be satisfied of the complainant's equity, either by affidavit, certified at the foot or on the back of the bill, that the allegations thereof are true, or by other means.

Injunctions, before verdict or judgment, on what to be grounded.

11. *And be it enacted*, That no motion to dissolve an injunction, which has been regularly obtained, shall be heard, until ten days after the answer is filed, if the party rely in any measure on his answer for the dissolution.

When answer shall be filed ten days before motion be made to dissolve injunction

12. *And be it enacted*, That neither a motion to dissolve an injunction, nor any other special motion, shall be heard, unless eight days notice, exclusive of Sunday and the day of service, shall have been given thereof to the opposite solicitor.

Eight days notice to be given of special motions.

1799.

If, after injunction, waste be committed, an attachment of contempt may be issued against the offender.

When and on what terms writs of ne exeat shall be granted.

Within what time the defendant is to plead, demur, and answer, or the bill be taken as confessed.

When plea or demurrer shall be set down for argument.

When complainant may reply to a plea. In case of demurrer and answer, demurrer to be first disposed of.

If plea or demurrer be

13. *And be it enacted*, That if the person, against whom an injunction shall be issued to stay waste, shall, after the service thereof, do or commit, or consent, direct, or suffer to be done or committed, any waste or destruction of or upon the premises, contrary to the said injunction, and the chancellor, on affidavit, or other proof, shall be of opinion, that such waste or destruction hath been done or committed; then the said chancellor may, on motion, order an attachment of contempt to be issued against the person so charged with disobedience to and a breach of the said injunction; and if the person, so offending, shall be brought before the chancellor, by virtue of the said attachment, and shall not make it appear to his satisfaction, that no waste or destruction hath been done or committed as aforesaid, then the said chancellor may, in his discretion, and on motion, order such offender to be committed, and kept in close custody, until he shall give further order therein.

14. *And be it enacted*, That no writ of ne exeat shall be granted, unless satisfactory proof be made to the chancellor, that the defendant designs quickly to depart from this state; and if granted, the chancellor shall direct to be endorsed thereon the sum, in which the party shall give bond, with surety or sureties, being freeholders in this state.

15. *And be it enacted*, That on a subpoena being returned, served, by the sheriff, the defendant shall file his plea, demurrer, or answer to the complainant's bill, in the clerk's office, at or before the stated term next after the day of appearance specified in such subpoena, unless the court shall grant the defendant further time; and if the defendant shall not file his plea, demurrer, or answer, within the time limited by this act, or granted by the court, the said bill shall be taken as confessed, and such decree made thereon, as by the court shall be deemed equitable and just; or the chancellor may, at his discretion, order the said complainant to produce documents and witnesses to substantiate and prove the allegations in his bill, or the chancellor may examine the complainant, on oath or affirmation, to ascertain the allegations in his bill; and such decree shall be made, in either case, as the chancellor shall think equitable and just.

16. Repealed, and supplied by act, 29th Feb. 1820.

17. *And be it enacted*, That when a plea or demurrer shall be filed, it shall be the duty of the party pleading or demurring, within three weeks after filing the same, to set it down for argument at the next term, or in default thereof, the said plea or demurrer shall be overruled of course.

18. *And be it enacted*, That when the complainant conceives the plea to be good, though not true, he may reply to, and take issue upon it, and proceed as in case of an answer.

19. *And be it enacted*, That if the defendant file a demurrer and answer, the complainant shall not proceed on the answer, till the demurrer has been argued or disposed of.

20. *And be it enacted*, That if the plea or demurrer be overruled, no other plea or demurrer shall be thereafter received; but

in such case, the defendant shall file his answer to the complainant's bill in forty days after such overruling; and if he fail to do so, the said bill shall be taken as confessed, and the said court shall thereupon proceed as directed in the fifteenth section of this act.

21. *And be it enacted*, That if the plea or demurrer be allowed, the complainant shall pay costs, and if overruled, the defendant shall pay them.

22. *And be it enacted*, That the complainant shall file exceptions, or a replication, or set down a cause for hearing upon bill and answer, within thirty days after the expiration of the time limited or granted for filing the answer, or on failure thereof, his bill shall be dismissed, with costs, unless good cause be shewn to the contrary.

23. *And be it enacted*, That when exceptions shall be filed to an answer, a rule may be entered of course, with the clerk, either in term time or in vacation, to refer the same to a master of the court, who shall decide and report upon them within thirty days after they are filed; but an appeal from such report shall be allowed to the chancellor, who shall hear and determine the same at the next term.

24. *And be it enacted*, That the complainant, if his exceptions be overruled, shall pay costs to the defendant; and the defendant, if his answer be adjudged insufficient, shall pay costs to the complainant.

25. *And be it enacted*, That when an answer shall be adjudged to be insufficient, the defendant shall file a second or further answer, within thirty days after such adjudication, or on failure thereof, the said bill shall be taken as confessed, and such proceeding had thereon as if the first or original answer had not been filed within the limited or granted time.

26. *And be it enacted*, That if such second or further answer shall be adjudged to be insufficient, the defendant shall pay double costs, and shall file a third or further answer, within twenty days after such adjudication, or on failure thereof, the said bill shall be taken as confessed, and such proceedings be had thereon, as if the first or original answer had not been filed within the limited or granted time as aforesaid.

27. *And be it enacted*, That if such third or further answer shall be adjudged to be insufficient, the defendant shall pay treble costs; and in such case, further time to answer shall not be allowed; but the said bill shall be taken as confessed, and such proceedings be had thereon, as if the first or original answer had not been filed in due time.

28. *And be it enacted*, That if a cross bill be exhibited, the defendant to the first bill shall answer thereto, before the defendant to the cross bill shall be compelled to answer such cross bill.

29. *And be it enacted*, That all rules, common or special, by consent of the parties or their solicitors, shall be entered of course with the clerk, whether in term time or in vacation.

1799.

overruled, no other to be received; and defendant to file his answer in forty days.

Costs on pleas or demurrers allowed or overruled.

When exceptions or replication to be filed, or the cause be set down for hearing on bill and answer.

Exceptions to answer to be referred to a master.

Costs on exceptions, by whom to be paid.

Within what time a second answer shall be filed.

If second answer be insufficient, the defendant to pay double costs, and to file further answer within twenty days.

If third answer be insufficient, the defendant to pay treble costs, and bill be taken as confessed.

A cross bill, when to be answered.

Rules by consent to be entered of course

1799.

Amendments,
how to be
made.

Parties to take
notice of
pleadings and
decrees, at
their peril.

If hearing be
on bill and an-
swer, the an-
swer to be ta-
ken as true.

Cause at issue
on filing repli-
cation.

Defendant, af-
ter answer,
may exhibit
interrogatories
to complain-
ant.

Fees of wit-
nesses.

Chancellor
may take the
opinion of su-
preme court
on matter of
law.

And may di-
rect an issue
on matter of
fact.

Cause to be
heard at the
next term af-
ter issue join-
ed.

Provided fif-
teen days in-
tervene be-
tween filing
the replication
and such term.

Complainant
making de-
fault at hear-
ing, his bill to
be dismissed.

Hearing to
proceed,

30. *And be it enacted*, That all amendments shall be made with or without costs, and on such equitable terms, as the said court shall direct.

31. *And be it enacted*, That parties to suits in chancery shall take notice, at their peril, of the filing of answers, demurrers, pleas, replications and other pleadings, and of the pronouncing and signing of decrees.

32. *And be it enacted*, That if the complainant proceed to a hearing on bill and answer only, the answer shall be taken to be true in all points; and no evidence shall be received, unless it be matter of record, to which the answer refers, and is proveable by the said record.

33. *And be it enacted*, That every cause in the court of chancery shall be deemed to be at issue on filing a replication; and it shall not be necessary to issue a subpoena, or enter a rule, to rejoin in any case.

34. *And be it enacted*, That the defendant in chancery, after he shall have filed his answer, may exhibit interrogatories to the complainant, which shall be answered by him on oath or affirmation, and such answer shall be evidence in the cause, in the same manner and to the same effect, as the defendant's answer to the complainant's bill is evidence; and if the complainant shall not answer such interrogatories by the time appointed by the court, he shall be in contempt, and his bill dismissed, with costs.

35. Repealed, and supplied by act, Feb. 29, 1820.

36. *And be it enacted*, That witnesses in the court of chancery shall be allowed the same fees, as by law are allowed to witnesses in the supreme court of this state.

37. *And be it enacted*, That the court of chancery may send any matter of law to the supreme court of this state, for their opinion to be certified thereon,

38. *And be it enacted*, That if any matter of fact shall render the intervention of a jury necessary, then the court of chancery is hereby authorized to direct an issue for the trial of the same in the supreme court of this state.

39. *And be it enacted*, That every cause shall be set down for hearing at the next stated term after the filing of the replication, or on failure thereof, the complainant's bill shall be dismissed, with costs; unless the court, on just cause and reasonable terms, allow further time for the said hearing; and if the said hearing be not had within the time so limited or allowed, then the court shall dismiss the said bill, with costs. *Provided always*, That there be fifteen days between the filing of the replication and the next stated term; and if there be not, then the hearing shall be had at the subsequent stated term, or at a special term.

40. *And be it enacted*, That if the complainant shall not attend at the time appointed for the hearing of the cause, his bill shall be dismissed, with costs.

41. *And be it enacted*, That if the defendant shall not attend at the time appointed for the hearing of the cause, the bill, answer,

replication, documents, and proofs shall be read, and the witnesses examined on the part of the complainant, and the court thereupon shall decree in favor of the complainant or dismiss his bill, as the case may require.

1799.

though the defendant shall not attend.

42. *And be it enacted*, That the bill, answer, pleadings, papers, documents, and proofs, filed in the cause, shall be used at the argument or hearing, for which no charge shall be made by the clerk, except that for reading.

Pleadings and proofs to be used at the argument or hearing.

43. *And be it enacted*, That whenever the chancellor shall deem it necessary to call to his assistance, the chief justice of this state, or any justice or justices of the supreme court, or one or more of the masters in chancery, to advise with upon the hearing of a cause, or an argument, or upon motions of importance, each justice and master shall be allowed after the rate of two dollars a day, by way of compensation for attending the said court, to be paid by the treasurer of the state, on a certificate, signed by the chancellor, of the time of such attendance, allowing one day for every twenty miles from his place of residence.

Compensation of judges and masters, when called by the chancellor to his assistance.

44. Repealed by act of Feb. 29, 1820.

45. *And be it enacted*, That when any cause shall be finally determined in the court of chancery, the clerk of the court shall enter together, in order, the bill, answer, pleadings, reports, decretal orders, and decree in such cause, in a book to be kept for that purpose, which shall be signed by the chancellor, as of the day on which such decree was pronounced; but such decree shall not contain any recital of the said bill, answer, or other pleadings.

Pleadings and decrees to be recorded by the clerk, and signed by the chancellor.

46. *And be it enacted*, That the decree of the court of chancery, shall, from the time of its being signed, have the force, operation, and effect of a judgment at law, in the supreme court of this state, from the time of the actual entry of such judgment.

Decrees to have the operation and effect of judgments at law.

47. *And be it enacted*, That where a decree of the court of chancery shall be made for a conveyance, release, or acquittance, and the party, against whom the said decree shall pass, shall not comply therewith by the time appointed, then such decree shall be considered and taken, in all courts of law and equity, to have the same operation and effect, and be as available, as if the conveyance, release or acquittance, had been executed conformable to such decree.

A decree, directing a conveyance or release, shall, if not complied with, have the operation and effect of a conveyance or release.

48. Repealed, and supplied by act, Feb. 29, 1820.

49. *And be it enacted*, That a writ of fieri facias shall bind the property of the goods of the person, against whom it is issued, from the time that it was delivered to the sheriff or officer to be executed, as at law.

Property of goods bound from delivery of execution.

50. *And be it enacted*, That if the sheriff or other officer shall neglect or refuse to execute any process of sequestration, to him directed and delivered, or to make payment of the rents, issues and profits of the estate so sequestered, according to the order of the said court, or, where the execution shall be by fieri facias, shall neglect to file a just and true inventory of the goods and

Sheriff, not executing process of sequestration, or fieri facias, or not rendering money to the

1799.

complainant, to be amerced to the amount of the demand, with costs.

Such amercement to have the effect of a decree, whereon execution may be issued.

Party aggrieved by the default of the sheriff, how to be redressed.

Sheriffs, who shall not make due return of process, to be in contempt, and fined.

Persons in contempt may be fined and committed.

Clerk to pay fines annually, to the treasurer.

chattels, lands, tenements, hereditaments, and real estate, so levied on and seized, unless he return, that he hath levied to the amount of the demand or sum therein specified, with costs, or shall voluntarily or negligently omit, for the space of two months, to render to the complainant, or his representative or solicitor, the money, which he shall have received from the sale of the estate, real and personal, of the defendant, or otherwise; then such sheriff or officer shall be amerced by the said court to the amount of the demand of the complainant, with costs, for the use of the said complainant. *Provided*, That ten days notice, in writing, shall be given to such sheriff or officer, by the complainant, his representative, or solicitor, of the intended application for such amercement; which amercement, so ordered by the court, shall have the force, operation, and effect of a decree, whereon execution, in the name and for the use of the said complainant, or his representative, may instantly, on motion in term time, and without further proceedings, be awarded and issued against the goods and chattels, lands, tenements, hereditaments and real estate of the said sheriff or officer.

51. *And be it enacted*, That if any party to a suit in chancery shall be aggrieved by the neglect, default, malepractice or misconduct of the sheriff, then such party, his representative, or attorney, may apply and be redressed, to the amount of the sum specified in the order or decree, in the manner prescribed by the ninth and tenth sections of the act, entitled "An act concerning sheriffs," passed the eighteenth day of March, in the year of our Lord, one thousand seven hundred and ninety-six.

52. *And be it enacted*, That if any sheriff or other officer, to whom any writ, process, or order of the court of chancery shall be directed, or delivered, shall not make return thereof, at the day of return, and according to the tenor of such writ, process, or order, the same not being countermanded, he shall be in contempt, and process of contempt shall, on motion in term time, be issued against him, and before he shall be discharged from such contempt, he shall pay to the clerk, for the use of the state, as a fine for the said contempt, a sum not exceeding fifty dollars, to be imposed by the court, and the costs incurred by means thereof.

53. *And be it enacted*, That to enforce obedience to the process, rules, and orders of the court of chancery, where any person shall be in contempt, according to the law, practice, or course of the said court, he shall, for every such contempt, and before he be released or discharged from the same, pay to the clerk in chancery, for the use of this state, a sum not exceeding fifty dollars, as a fine for the said contempt; and that the said person, being in court, upon process of contempt, or otherwise, shall stand committed and remain in close custody, until the said process, rule, or order shall be obeyed and performed, and until the fine, so imposed for such contempt, with the costs, be fully paid.

54. *And be it enacted*, That the said clerk in chancery shall account for, on oath, and pay, annually, to the treasurer of this state, the fines, which he shall have received by virtue of this act.

55. *And be it enacted*, That, except where it is otherwise directed by this or some other act of the legislature, it shall be in the discretion of the court of chancery to award costs or not; and the payment of costs, when awarded, may be compelled by writ of fieri facias, or capias ad satisfaciendum, issuing out of the said court, or by subpoena and attachment.

1799.

Costs in the discretion of the court, where not otherwise directed by law; and how to be recovered.

56. *And be it enacted*, That subpoena to hear judgment, attachment with proclamations, and commission of rebellion, shall, in all cases in chancery, be deemed unnecessary, and omitted accordingly.

Certain process to be omitted.

57. *And be it enacted*, That the office of register, in the court of chancery, be, and it is hereby abolished.

Register's office abolished.

58. *And be it enacted*, That it shall be lawful for the court of chancery, from time to time, to make, alter, amend, or revoke any rule of practice, so as to obviate doubts, advance justice, and expedite suits in the said court, so that the same be not contrary to the provisions of this act.

Chancery may make rules of practice, not contrary to this act.

59. Repealed, and supplied by act, Feb. 29, 1820.

60. *And be it enacted*, That the act, entitled "An act to direct the mode of examination of witnesses in the court of chancery, and for other purposes therein mentioned," passed the twenty-second day of November, in the year of our Lord, one thousand seven hundred and ninety, be, and the same is hereby repealed.

A certain act repealed.

See supplement, 29th Feb. 1820.

AN ACT relative to the secretary's office.

PAT. 450.

Passed the 19th of November, 1799.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the clerks of the pleas of the several counties of this state shall, within ten days after each session or term of the said courts, respectively make out a duplicate abstract from the minutes of all fines and amercements awarded, and the amount of all judgments entered on forfeited recognizances, payable into the treasury of the state, and transmit the same to the secretary of this state on or before the first day of November, annually, in like manner and under the same pains and penalties as is directed to be made to the treasurer of the state, in and by the act, entitled "An act directing the clerks of the courts to make return to the treasurer of amercements, fines and forfeitures," passed May the thirty-first, seventeen hundred and ninety-nine; and the secretary is hereby required to open an account of the same against the treasurer, in the public books in his office.

Clerks of the pleas to transmit, annually, abstracts of fines, &c. to the secretary of the state,

2. *And be it enacted*, That all persons paying moneys into the treasury of this state, on any account whatsoever, shall, immediately on receiving the treasurer's receipt for the same, carry the said receipt to the secretary of this state, to be by him entered in the public books in his office, in an account to be opened therein

Receipts for moneys paid into the treasury to be entered, and endorsed by the secretary of the state.

1799.

against the treasurer; and the said secretary is hereby required, on such receipt being offered to him for that purpose, without fee or reward, to enter the same accordingly, and to endorse thereon the time when, and the book and page where, the same was entered, signing his name to the said endorsement, and no receipt from the treasurer shall hereafter be deemed valid in the settlement of accounts, or allowed to operate against the state, without such endorsement thereon, and that no one may plead ignorance of this law, the treasurer is hereby directed to cause a fair copy of the enacting clause of this section to be set up in some conspicuous part of his office, for the information of every one concerned.

Fees to be taken by the secretary;

and annual allowance to him.

3. *And be it enacted*, That the secretary of this state shall be entitled to demand and receive, from persons making searches and obtaining extracts from any of the public books and papers in the auditor's office, the same fees as by law he is entitled to receive for like services in the secretary's office; and as a compensation for his trouble in settling the accounts of the agents of forfeited estates, registering and endorsing receipts, opening accounts against the treasurer of fines and amercements, and other services required by law, he shall receive, from the treasurer of this state, the sum of fifty dollars, yearly.

PAT. 450.

AN ACT to provide for the security of the citizens of this state, against the introduction of contagious diseases.

Passed the 19th of November, 1799.

Preamble.

WHEREAS it hath been represented to the legislature, that for want of due provision on the part of this state, the laws of the states of Pennsylvania and New-York, for preventing contagious diseases, have been repeatedly evaded by the citizens of this state, and by the crews and passengers of infected vessels landing on the shores of this state; and it being necessary to prevent a repetition of a conduct so dangerous—

In what case the governor shall issue his proclamation, prohibiting all communication with certain infected vessels.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the governor of the state for the time being, upon application to him made by the executive or other competent authority, in the states of Pennsylvania or New-York, of any vessel infected with a malignant disease, and performing quarantine under the laws of the said states of Pennsylvania or New-York, being then in the rivers Delaware or Hudson, or the waters adjacent to the city of New-York, to issue his proclamation, forwarning all citizens of this state from entering on board of, or having any communication, with such infected vessel; and if any person or persons shall, after the publication of the said proclamation, and in contravention thereof, enter on board of any such vessel, so as aforesaid described in the said proclamation, or be any way concerned in bringing to the shores

of this state, any goods, merchandise, bedding or clothing, he, she or they, for every such offence, shall, on conviction thereof, in due course of law, be fined in any sum not exceeding three hundred dollars, at the discretion of the court before whom such conviction shall be had.

1800.

Penalty on
persons trans-
gressing.

AN ACT concerning the clerk's office in the several counties of this state.

PAM. 17.
BLOOM. 5.

Passed the 17th of November, 1800.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That in every county of this state, where an office hath been, or hereafter may be built, at the expense of any county in this state, of materials not liable to be destroyed by fire, and the same is or shall be finished and completed, and be situate within half a mile of the court-house of the respective county, the clerks of the several counties, and their successors in office, shall, and they are hereby required to remove to the office so provided, all the books, records and papers, appertaining to the office of the respective clerk.

If an office be
built,

the clerk's of-
fice shall be
removed to it.

2. And be it enacted, That if any clerk of any county of this state, shall neglect or refuse, for the space of ten days, to remove all the books, records and papers appertaining to his said office, to the office which hath been or may be built and completed, as aforesaid, every clerk so offending, shall forfeit and pay for each day he shall so neglect or refuse, after the expiration of the said ten days, the sum of ten dollars, to be sued for and recovered by the director of the board of chosen freeholders in the county where the delinquency shall happen, in his own name, to be applied, when recovered, to and for the use of the county.

Penalty on the
clerk for ne-
glect, &c.

AN ACT for altering and establishing the times of holding the courts in and for the county of Middlesex.

PAM. 36.
BLOOM. 6.

Passed the 9th of February, 1807.

See ante, page
304.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the circuit courts for the county of Middlesex, shall be held on the second Tuesdays of June and December, in every year.

Circuit courts
of Middlesex.

2. And be it enacted, That the courts of common pleas and general quarter-sessions of the peace, for the said county of Middlesex, shall be held on the second Tuesdays of March, June, September and December, in every year.

Courts of com-
mon pleas, &c.
when to be
held.

3. And be it enacted, That this act shall be in force from and after March term next, and that from and after the same period, so much of the act, entitled "An act ascertaining the times and places of holding the courts of common pleas and general quar-

Part of former
acts repealed.

1801. ter-sessions of the peace," passed the eighth day of March, in the year of our Lord, one thousand seven hundred and ninety-eight, and so much of the act, entitled "An act relative to the supreme and circuit courts," passed the sixth day of June, in the year of our Lord, one thousand seven hundred and ninety-nine, as is repugnant to this act, shall be, and the same is hereby repealed.

PAM. 37.
BLOOM. 7.
See ante, page
454.

AN ACT altering the time of holding the circuit courts and courts of common pleas and general quarter-sessions, in and for the county of Burlington.

Passed the 13th of February, 1801.

Courts, when
to be held.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the circuit courts, and courts of common pleas and general quarter-sessions, in and for the county of Burlington, shall be held on the fourth Tuesday of May and the first Tuesday of November, annually.

2. Obsolete.

Part of former
act repealed.

3. *And be it enacted*, That so much of the act directing the circuit courts, and courts of common pleas and general quarter-sessions, to be held for the county of Burlington, on the third Tuesday in May, be and the same is hereby repealed.

PAM. 43
BLOOM. 8.

AN ACT to alter the line and bounds between the townships of Evesham and Chester, in the county of Burlington

Passed the 23d of February, 1801.

Preamble.

WHEREAS the present lines of division of the townships of Evesham and Chester, in the county of Burlington, are very crooked, and not satisfactory to the inhabitants of said townships, for remedy WHEREOF—

Division line.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the division line between the townships of Evesham and Chester, shall be as follows, to wit: beginning at the mouth of Thomas Tallman's creek (so called) where it puts into Rancocus creek, and runs up the said Tallman's creek, the several courses thereof to a small run of water eastwardly of Thomas Tallman's stone house, and runs from thence one direct course south, fifty-three degrees west, four hundred and ninety-eight chains, be the same more or less, until it strikes the pond of William Kaighn's fulling-mill, two chains and fifty links to the southward of said Kaighn's dwelling-house, thence down the said pond and stream of water, until it intersects the south branch of Pensaukin creek, (near about ten chains) being the county line between the counties of Burlington and Gloucester, any act to the contrarywise notwithstanding.

AN ACT to alter and amend the charter of the city of New-Brunswick.

1801.

Passed the 23d of February, 1801.

PAM. 44.
BLOOM. 9.

WHEREAS it has been found by experience, that the present charter of incorporation of the city of New-Brunswick, is insufficient to answer the good purposes thereby intended; THEREFORE—

Preamble.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That all that tract of land situate, lying and being within the limits and boundaries hereinafter mentioned; that is to say—Beginning on the Raritan river, where Lawrence's brook empties into the same, thence up said brook, following the several courses thereof to where Cornell's brook falls into the same; thence up the said last mentioned brook, following the several courses thereof to George's road; thence on a straight line to the most westwardly corner of Hermanus Cortleyou's plantation, on the post-road leading from New-Brunswick to Princeton; thence eastwardly along said road, on the north side thereof, to a brook known by the name of the Mile-Run; thence down said brook, as it runs to a bridge over the same, near the mouth thereof, on the road leading from Bound-Brook to New-Brunswick; thence along the said road, on the southwardly side thereof, to Garnet's gully; thence down the said gully to Raritan river; thence crossing the same, on a straight line, to high water mark; thence down said river, on the north side thereof, the several courses of the same, until it comes opposite to the mouth of said Lawrence's brook; thence crossing the said river, on a straight line, to the place of beginning, shall be, and the same is hereby ordained, constituted and declared to be a city and town corporate, and shall henceforth be called, known and distinguished by the name of "The City of New-Brunswick."

Bounds of the corporation.

2. *And be it enacted,* That for the better ordering, ruling and governing the said city of New-Brunswick and the inhabitants thereof, there shall henceforth be, in the said city, a mayor, who shall be keeper of the common seal; a recorder, who, besides the office of recorder, shall, in case of the absence, death or other disability of the mayor, have, hold, use and execute, the several duties annexed to the mayoralty and every of them, during such absence or other disability; three aldermen, six common council men, and one town-clerk; which mayor, recorder, aldermen and common council men, shall be one body politic and corporate, in deed, fact and name, by the name, style and title of "The Mayor, Recorder, Aldermen and Common Council of the City of New-Brunswick," and by the same name shall have perpetual succession, and they, and their successors, at all times hereafter, by the name, style and title of "The Mayor, Recorder, Aldermen and Common Council of the City of New-Brunswick," shall be able and capable, in law, to have, purchase, take and receive, possess and enjoy lands, tenements, heredita-

Officers of the corporation.

Style.

May hold lands;

1801.

and convey
the same.May sue and
be sued.Use a com-
mon seal, &c.Mayor, &c.
how to be ap-
pointed,and by whom
qualified.

ments, liberties, franchises and jurisdictions, goods, chattels and effects, to them and their successors, in fee-simple or otherwise; *Provided always*, That the annual income of such estate shall not exceed the sum of two thousand five hundred dollars, and also, that they and their successors, by the name aforesaid, shall and may, under the seal of the said city, give, grant, bargain, demise, assign, sell and convey, or otherwise dispose of all or any of their messuages, houses, buildings, lands, tenements, possessions, or other real estate, and all other goods, chattels and things aforesaid, at any time belonging or to belong to the said city or corporation, in such manner and form as to them shall seem meet; and also, that they and their successors, by the name aforesaid be, and they shall for ever hereafter be, able and capable in law, to sue and be sued, plead and be impleaded, appear, answer and be answered unto, defend and be defended, in all or any of the courts of judicature, either in law or equity, in this state or elsewhere, in all manner of actions, suits, plaints, pleas, causes, matters and demands, whatsoever, in as full and ample a manner and form as any of the free inhabitants of this state; and also, that they, the said mayor, recorder, aldermen and common-council of the said city of New-Brunswick, and their successors, shall and may make and for ever hereafter use one common seal, and the same may alter and break, and a new seal make, have and use as the common seal of the said city; which said seal shall be used for the sealing of all and singular deeds, grants, conveyances, contracts, bonds, articles of agreement, assignments, powers and authorities, and all and singular other instruments, affairs and business, any way touching, concerning or relating to the said corporation, or to the certifying or assuring any matter or thing of a private nature necessary to be certified or assured by the said corporation, or by the mayor thereof, or any of the officers appertaining to the mayoralty.

3. *And be it enacted*, That the said mayor, recorder and aldermen, shall be freeholders in the said city, and justices of the peace *ex officio*, within the said city, and shall be appointed by the council and general assembly of this state, in joint-meeting, and commissioned by the governor of the same, in the same manner as the judges and justices of the peace throughout the same are appointed and commissioned, and shall continue in office for the same time, and be amenable in like manner to the council and general assembly; and the said mayor, recorder and aldermen, shall severally take and subscribe the oath or affirmation of allegiance to this state, and also an oath or affirmation for the faithful discharge and execution of their respective offices, within twenty days after the receipt of their commissions, or his or their appointment or appointments shall be void; and the said mayor shall take the said oaths or affirmations herein before prescribed, before any one of the judges of the inferior court of common pleas, or justices of the peace of the counties of Somerset or Middlesex, and the said recorder and aldermen shall, within the same time, take the oaths or affirmations aforesaid, before the mayor or any of the said judges or justices, and every other officer to be chosen or appointed, shall

take the said oaths or affirmations before the mayor, recorder or one of the aldermen.

1801.

4. *And be it enacted*, That it shall and may be lawful for the freeholders, and such of the inhabitants of the said city of New-Brunswick, as are by law qualified to vote for representatives in the general assembly, to assemble at such place, within the said city, as by the mayor, recorder, or any two of the aldermen, shall be appointed, on the second Monday in May next, and then and there, by plurality of voices, to elect six common council men and one town-clerk, to hold their respective offices for and during one year, and until their successors shall be elected and sworn into office; and on the second Monday in May, yearly and every year, for ever thereafter, the freeholders and such of the inhabitants of the said city of New-Brunswick, qualified as aforesaid, shall assemble at such place as may be directed by the common council, and then and there, by plurality of voices, elect the like number of common council men, and one town-clerk, to hold their respective offices during the said term of one year, and until their successors shall be elected and sworn into office as aforesaid.

Common
council men,
&c. how elect-
ed, and when.

To serve for
one year.

5. *And be it enacted*, That the said mayor, recorder, aldermen and common council men, or a majority of them, (of which the mayor or recorder shall always be one) shall constitute a common council; and in all business to be done in and by the said common council, a majority of the votes of the members present shall decide: *Provided always*, That no by-laws or ordinances of the said common council, shall pass without the concurrence of at least six votes.

Who shall
constitute a
common
council.

6. *And be it enacted*, That the said mayor, recorder, aldermen, and common council men, of the said city of New-Brunswick, shall and may make, pass, seal with the common seal of the said city, and publish such by-laws and ordinances, not repugnant to the laws of this state, or of the United States, as they may conceive calculated to promote the welfare and prosperity of the said city of New-Brunswick, and the same to put in execution, revoke, alter, and make anew, as to them shall appear necessary and convenient, and to appoint a city treasurer, city marshal, clerk of the market, assessor, collector, and such other subordinate officers as to them shall seem proper and necessary, for the good government of the said city, and by ordinance to require such security from the several officers as they may think proper; which officers, last aforesaid, shall continue in office during the pleasure of the common council: *Provided always*, That no fine or penalty laid by any such by-law shall, in any case, exceed thirty dollars.

With power to
make by-
laws;

7. *And be it enacted*, That the said mayor, recorder, aldermen, and common council men, or a majority of them, in common council assembled, shall have the sole, only and exclusive power of licensing all and every inn-keeper, or tavern-keeper, residing within the bounds of the said corporation, subject to the same provisions, restrictions and regulations, and in like manner

license tav-
erns.

1801.

as the same may be lawfully done by the courts of general quarter-sessions of the peace in this state.

Money, how
to be raised,

assessed,

collected, and
disposed of.

8. *And be it enacted*, That the freeholders and inhabitants of the said city of New-Brunswick, at their annual town-meeting, shall vote such sum or sums of money as they may think necessary to be raised for the ensuing year, for the exigencies of the said city; which sum or sums, shall be assessed upon the inhabitants by the assessor, agreeably to the laws and regulations to be made by the common council of the said city for that purpose, and collected by the collector at such time, and be paid and disposed of in such manner as the common council shall direct; and if no sum, or an insufficient sum, shall then be voted to be raised, and the interest of the city require it, the common council are hereby authorized to call a meeting of the freeholders and inhabitants, by advertisement or otherwise, giving at least five days notice, and to propose to them the sum in their opinion necessary to be raised, and whatever sum the freeholders and inhabitants shall, by plurality of voices, vote to be raised, shall be assessed and collected, paid and disposed of in manner aforesaid: *Provided always*, That no tax shall be levied upon, or collected from any person, who, from his or her local situation, beyond the line of buildings in the said city, is not interested in the good purposes for which such tax is designed; and provided also, that every person in said city, who may think him or herself aggrieved by any fine, penalty or assessment, imposed on them in virtue of this act, may appeal to the common council, who are hereby required to hear his or her cause of complaint, and to do therein what to them may appear just and equitable.

Vacancies,
how to be supplied.

9. *And be it enacted*, That in case a vacancy shall happen in the office of mayor and recorder of the said city, by death, resignation, removal or otherwise, in such case the aldermen shall meet together, and by plurality of voices choose one of their number, who shall have and execute the duties annexed to the mayoralty, until a mayor and recorder shall be appointed and commissioned according to law, and that as soon as may be convenient after such vacancy shall happen; and when by death, removal, or otherwise, any vacancy or vacancies shall happen in any of the offices herein rendered elective by the freeholders and inhabitants of the said city, the mayor for the time being, is hereby required and directed, by advertisement or otherwise, giving at least five days notice, to call a meeting of the freeholders and inhabitants aforesaid, who, when assembled, are hereby authorized, by plurality of voices, to elect such and so many fit persons as are necessary to fill up the offices and supply such vacancy or vacancies; which officers so elected shall be sworn in the manner aforesaid, and shall continue in office until the next annual election.

Offenders,
where to be
committed.

10. *And be it enacted*, That it shall and may be lawful for the said mayor, recorder, and aldermen, or either of them, to commit every person or persons, offender or offenders, whom by law they or either of them are authorized to commit to gaol,

or to imprison, to and in the gaol in the said city of New-Brunswick; and the keeper of the said gaol is hereby required to receive such person or persons, so committed, and him, her or them to keep in close and safe custody, until thence discharged by due course of law: *Provided always*, That nothing in this act contained shall authorize the said mayor, recorder or aldermen, or any or either of them, to commit to the said gaol any debtor or debtors not residing in the said city of New-Brunswick.

1801.

11. *And be it enacted*, That all the lands tenements, hereditaments, goods, chattels and rights, whatsoever, of the corporation, known by the name of the "President, Register, Directors and Assistants of the City of New-Brunswick," be, and they are hereby vested in the corporation by this act erected and established.

Property of former corporation vested in this.

12. *And be it enacted*, That this act shall be deemed and taken to be a public act, and as such to be taken notice of by all courts of justice within this state.

13. *And be it enacted*, That the act, entitled "An act for incorporating the said City of New-Brunswick," passed the first day of September, seventeen hundred and eighty-four, be, and the same is hereby repealed.

Former act repealed.
PAT. 54.

See supplement, February 7th, 1818.

AN ACT to divide the township of Shrewsbury, in the county of Monmouth.

PAM. 51.
BLOOM. 17.

Passed the 23d of February, 1801.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Shrewsbury, in the county of Monmouth, lying within the following boundaries, to wit: beginning at the main sea or ocean, in the middle of Shark-River Inlet, and from thence running up the main stream thereof, along its several windings, to a place called and known by the name of the Horse-Pound; and from thence from a certain pine tree, standing by the edge of the brook in the Horse-Pound, lettered I. P. said to be the beginning corner of a tract of land surveyed and returned for Joseph Potter, deceased, on a straight line to the head spring of Mingumehone-Branch, at the foot of Manhomonny-Hill, near the widow Harvey's house; and from thence, on a straight line to the most southerly corner of a tract of land belonging to the Reverend Samuel Pyle, called the Mill-Tract; from thence along said Pyle's southerly bound lines, till it meets the easterly bound line of the township of Freehold; and from thence along said line, southerly, until it meets the northerly bound line of the township of Dover; and from thence, eastwardly, along the line of said township, until it comes to the main ocean; and from thence along the same, northerly, to the place of beginning, shall be, and the same is hereby set off from

Division line.

1801. the township of Shrewsbury, and the same is hereby established a separate township, to be called by the name of "The Township of Howell."

2, 3, 4, 5, 6. Executed and supplied.

PAM. 62.

AN ACT in respect to the record of the inferior court of common pleas in and for the county of Burlington in certain cases.

Passed the 27th of February, 1801.

Certain final judgments directed to be entered, &c.: see pamphlet 1801, p. 62.

PAM. 70.
BLOOM. 21.

AN ACT to incorporate into a township, a part of the townships of Fairfield and Maurice-River in the county of Cumberland.

Passed the 24th of February, 1801.

Preamble.

WHEREAS it hath been represented to the legislature, by the petitions of sundry inhabitants of the townships of Fairfield and Maurice-River, in the county of Cumberland, that they are subjected to very great inconveniencies, by reason of the extent of the said townships; for remedy WHEREOF—

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the townships of Fairfield and Maurice-River, in the county of Cumberland, lying within the following bounds, to wit: beginning at the mouth of Buckshutem-Creek, from thence running up the middle of the water-course thereof to Northwest-Branch; thence up said branch to a beaver dam; thence a straight course to the head of Chatfield-Branch; thence down the same to Lebanon-Branch; thence along the line of Deerfield township to Maurice-River; thence up the same to the line of Gloucester county; thence along the same to Manamus-keen-Branch; thence down the same to Scot's line; thence along said line to Menantico-Creek; thence down the said creek to Maurice-River; thence across the river to the place of beginning, shall be, and the same is hereby set off from the townships of Fairfield and Maurice-River, and the same is hereby established a separate township, to be called by the name of "The township of Millville."

Bounds of the
new town-
ship.

To be called
Millville.

2, 3, 4. Executed and supplied.

AN ACT designating the taxable property within the state of New-Jersey.

1801.

PAM. 93.

Passed the 9th of March, 1801.

WHEREAS there is no existing law designating the taxable property within this state, in order that the legislature may be possessed of a true return of the said taxable property, whereon to levy any future taxes whenever the same may be necessary for the use of the state—

Preamble.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the assessors of each county within the state, shall, according to the mode prescribed by an act, entitled "An act concerning taxes," passed the tenth day of June, one thousand seven hundred and ninety-nine, take a list of the following articles and things, and shall, at their next annual meeting for settling the quotas, make an abstract or aggregate return of said articles and things in each township, to the county collector, to be by him laid before the legislature at their next annual meeting, to wit: all tracts of land held or owned by deed, patent, occupancy, survey or otherwise; all houses and lots, all single men and horses, all single men-slaves, covering-horses, horses or mules, neat cattle, shop-keepers, tan-yards, fisheries, saw-mills, grist-mills, fulling-mills, furnaces, forges, rolling and slitting mills, ferries and toll-bridges.

Assessors to take lists;

and make an abstract, to be laid before the legislature.

2. *And be it enacted,* That the above articles are to be taken by the different assessors, as they are specified and described in an act, entitled "An act to raise the sum of fifteen thousand pounds, in the year one thousand seven hundred and ninety-four," passed February the seventh, one thousand seven hundred and ninety-four.

Articles, how to be taken.

3. *And be it enacted,* That the assessors and county collectors throughout the state, shall be subject to the same fines and penalties, for neglect of duty, as they are subjected to by the first above recited act.

Penalties for neglect, &c.

A SUPPLEMENT to an act, entitled "An act respecting coroners," passed the eighth day of March, seventeen hundred and ninety-six."

PAM. 105.
ROOM. 45.
See ante, 231.

Passed the 20th of November, 1801.

WHEREAS inconveniencies have arisen where the bodies of persons have been found dead, and lying for want of a coroner to hold an inquest over the same in due time: for remedy **WHEREOF—**

Preamble.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if it shall at any time hereafter so happen, that a coroner cannot be had in due time to take inquest of deaths in prison, or

In what case a justice of the peace may take inquests, &c.

1801. any violent, sudden or casual deaths within his county, then and in such case, it shall be the duty of any justice of the peace in the county where such death may happen, or dead body be found, on notice thereof, to make out a precept, directed to any constable of the county where such dead body is found, or lying, requiring him to summon a jury of good and lawful men, of the same county, to appear before him, at the time and place in such precept mentioned, to inquire in what manner the person then lying dead, came to his or her death, and of such other matters relating to the same as shall be lawfully required of them, according to the evidence. And it shall be the duty of said justice to do all and every other thing and things, in manner and form which is required of a coroner to do in the premises, and shall be entitled to the same fees for his services, and subject to the same fine for neglect of the duties required of him in this law, any law, usage or custom to the contrary notwithstanding.

AN ACT further to regulate fees.

PAM. 122.
BLOOM. 80.
See ante, 481.

Passed the 30th of November, 1801.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the proper officer to receive for signing a judgment, fifty cents; and the like sum for taking the acknowledgment or proof of the execution of any mortgage or conveyance of lands, tenements and hereditaments or other instrument necessary to be acknowledged or proved.

Allowance for
signing judgment,
&c.

Justices' fees.

2. And be it enacted, That justices of the peace shall be entitled to receive the following fees:—viz.

For entering an adjournment in a court for the trial of small causes,	CENTS. 10
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In cases of attachment.

For a writ of attachment,	25
For recording the return of the same,	10
For every summons against a garnishee,	20

In cases of larceny, under six dollars, upon conviction.

For drawing the accusation,	30
For the trial of every cause,	60

Constable's
fees.

3. And be it enacted, That in all criminal cases, upon conviction, constable's fees shall be as follows, viz:—

For serving every warrant,	CENTS. 60
For attending prisoner during trial for larceny under six dollars,	25

4. Repealed March 1, 1804.

For recording
deeds, &c.

5. And be it enacted, That the secretary of this state, and the clerks of the respective counties in this state, shall be entitled to receive for entering deeds and conveyances on the record, one

cent for each sheet, and the like sum for a copy of the same: and that the clerk of the supreme court, and the clerks of the courts of common pleas in the several counties of this state, shall be entitled to charge for every bill of costs, by him taxed, the sum of twenty-five cents, in addition to the sums allowed by the act, entitled "An act to regulate fees," passed the thirteenth day of June, seventeen hundred and ninety-nine.

1802.

Clerk's fees
for taxing
costs.
See ante 481.

AN ACT to incorporate into a township a part of the townships of Northampton, Evesham and Little-Egg-Harbor, in the county of Burlington, by the name of Washington.

PAM. 161.
BLOOM. 86.

Passed the 19th of November, 1802.

WHEREAS a number of the inhabitants of the townships of Northampton, Evesham, and Little-Egg-Harbor, in the county of Burlington, have, by their petition, set forth to the Legislature the disadvantages they labor under by reason of the great extent of the said townships; for remedy whereof,—

Preamble.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the townships of Northampton, Evesham and Little-Egg-Harbor, lying within the following bounds: beginning at the mouth of Wading-River, and running up the same, the several courses thereof, to the mouth of Tub-Mill branch; thence up the said branch, the several courses thereof, to the head; from thence to a point of fast land, known by the name of Breakfast-point; from thence a direct course to a bridge called Joseph M. Lawrie's bridge, near the head of a stream of water called Poppuse-run; from thence, on a direct course, until it strikes a bridge at the head of the Union-Forge pond; from thence a straight line to Muskingum bridge; from thence on a straight line, to Atsion-creek, above Goshen-Mill; from thence down Atsion-creek, the several courses thereof, to Mullicas-river, and down the same, the several courses thereof, to the place of beginning, at the mouth of Wading-River, shall be, and is hereby set off from the said townships of Northampton, Evesham and Little-Egg-Harbor, and made a separate township, to be called by the name of the township of Washington.

Bounds of the
new township.

Name.

2, 3. Supplied and executed.

AN ACT to institute a market at the city of New-Brunswick, for the sale of live-stock.

PAM. 167.
BLOOM. 87.

Passed the 23d of November, 1802.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall and may be lawful to hold a public market for the sale of live-stock, namely, horses, cattle, sheep and hogs, in the

Market for the
sale of live-
stock,

1802.

when to be held;.

months of April and November, annually, at such place within the limits of the corporation of the city of New-Brunswick, from the hour of seven in the forenoon till the hour of four in the afternoon, of any number of successive days, not exceeding four, in the said months respectively, as the corporation of the said city shall, from time to time, appoint.

and how to be regulated.

2. *And be it enacted*, That it shall and may be lawful for the said corporation to pass ordinances and by-laws for the regulation of the said market: *Provided always*, That the same be not repugnant to the constitution and laws of the United States, or of this state.

PAM. 166.
BLOOM. 88.

AN ACT to regulate the payment of pensions to invalids and widows.

Passed the 24th of November, 1802.

Affidavit to be produced.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, no person or persons whatsoever, who are or shall be entitled to receive from the treasurer of this state, any money on account of warrants to widows or invalid pensioners, shall receive the same, except in cases of arrearages of pensions due at the time of the death of an invalid, or at the marriage or death of a widow, unless he or she produce to the said treasurer the affidavits of two reputable freeholders of the county in which he or she resides, setting forth, that of their own knowledge, the person named in said warrant is at the time living, and if a widow, that to the best of their knowledge and belief, she is still the widow of the deceased person mentioned in the said warrant.

PAM. 190.
BLOOM. 88.

AN ACT to regulate the repacking of beef and pork for exportation.

Passed the 2d of December, 1802.

Inspectors,
&c. how to be
commission-
ed.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the governor, or person administering the government of this state, for the time being, on the application and recommendation of the common council of any city or town corporate, or the committee of any township within this state, shall appoint and commission one or more inspectors and repackers of beef and pork, (who shall not be dealers in the said articles) in such parts of the state as may be deemed necessary and expedient.

2. *And be it enacted*, That each and every inspector and repacker of beef and pork, appointed and commissioned as aforesaid, shall, before he enter upon the execution of the said office, take and subscribe the following oath or affirmation, before one

of the justices of the supreme court of this state, or before one of the judges of the court of common pleas in and for the county in which the duties of such office are to be exercised, viz.

1802.

"I, A. B. do solemnly swear (or affirm) that I will faithfully, truly and impartially, according to the best of my judgment, skill and understanding, execute the office and duty of an inspector and repacker of beef and pork, according to the true intent and meaning of the laws of this state relative to the same, and that I will not directly or indirectly brand or suffer to be branded, any casks of beef or pork, but what shall be sound and merchantable agreeably to the said laws."

Oath to be taken,

A copy of which said oath or affirmation, subscribed by the person appointed as aforesaid, and signed by the officer by whom it was administered, shall be filed in the office of the clerk of the county where the said inspector and repacker usually resides.

and filed.

3. *And be it enacted*, That the inspectors and repackers who may be appointed by virtue of this act, shall provide themselves with good and sufficient stores, capable of receiving and storing such beef and pork as may be brought to them for inspection and repacking.

Stores to be provided.

4. *And be it enacted*, That all barrels or half-barrels in which any beef or pork shall be repacked, shall be made of good, well seasoned white-oak staves and heading, and that every merchantable barrel of salted beef, which shall be inspected and repacked by any of the inspectors and repackers appointed or to be appointed by virtue of this act, shall be of the gauge to hold not less than twenty-eight gallons, nor more than thirty gallons, wine measure; and every barrel of merchantable pork shall be of the gauge to hold not less than twenty-nine gallons, nor more than thirty-one gallons, of the measure aforesaid, and both shall contain two hundred pounds of cured meat; and every merchantable half-barrel of salted beef and pork shall be of the gauge to hold fifteen gallons of the measure aforesaid, and shall contain one hundred pounds of cured meat; each barrel and half-barrel shall have thereon at least twelve good and substantial hoops, the bilge hoops shall be secured by wooden pins or pegs, and the hoops at each end by iron nails; the heads of each barrel and half-barrel shall be flagged, and so completely coopered; that in the opinion of the inspector and repacker, it shall be sufficiently tight to prevent the pickle from leaking out; the barrels shall be as nearly straight as possible.

Barrels, how to be made.

5. *And be it enacted*, That there shall be three denominations or qualities of beef. The first to be denominated "Mess Beef," to consist of choice pieces, without hocks, shanks or necks; the second, to be denominated "Prime Beef," shall not contain more than half a neck and two shanks, with the hocks cut off; the third to be denominated "Cargo Beef," shall not have in a barrel more than half a neck and three shanks, all to be good sound beef of cattle well fattened. There shall not be any shanks or bony pieces put into any of the barrels as merchantable,

Beef, how to be assorted,

1802.

how packed,

and how
branded.

from which the meat has been cut for smoking; no beef shall be repacked until it has been in salt a sufficient length of time, and each barrel shall be repacked with at least three half pecks of salt; not inferior to Lisbon salt, and half-barrels, half the same quantity of salt. The first denomination shall be branded "New-Jersey Mess Beef," and the initial of the inspector's christian name, and his surname at full length, together with the name of the place where repacked. The second denomination shall be branded "New-Jersey Prime Beef," and the third "New-Jersey Cargo Beef," with the name of the inspector and place where inspected and repacked, as aforesaid, on both the last mentioned denominations; and half-barrels shall contain half the quantity of each description, and shall be branded as the whole barrels.

Pork, how to
be assorted,

and branded.

6. *And be it enacted*, That the said inspectors and repackers shall carefully examine all pork to be by them repacked, and such only as is well fatted shall be branded by them as merchantable: "Mess Pork" shall consist of the sides only of good fat hogs, and the barrels containing it shall be branded on one of the heads "New-Jersey Mess Pork," and the initial of the repacker's christian name, and his surname in full length, with the name of the place where repacked.

The second quality shall be denominated "Prime Pork," and shall consist of good, sound, fat pork, of which there shall not be in a barrel more than three shoulders with the legs cut off at the knees, and not more than two sizeable heads, with the ears and snouts cut off, and which barrel shall be branded on one of the heads "New-Jersey Prime Pork," with the repacker's name and place where repacked as aforesaid.

The third quality shall be denominated "Cargo Pork," and shall not contain more than four shoulders, with the legs cut off at the knees, and not more than two heads, not exceeding in weight thirty pounds, and which barrel shall be branded on one of the heads "New-Jersey Cargo Pork," with the name of the inspector and place where repacked, as before directed. Half-barrels of pork shall contain one half the quantity of, and be in every respect, as to quality, as the whole barrels; and the respective denominations shall be branded as is directed with respect to whole barrels; each barrel shall have at least one half bushel of salt, not inferior to Lisbon salt, and each half-barrel not less than one peck of the like quality.

All barrels of
pork or beef
shall be in-
spected and
branded.

7. *And be it enacted*, That every barrel or half-barrel of salted beef or pork, which shall be exposed to sale within this state, to be exported from it to any market beyond the sea, or that shall be so exported by the owner thereof, shall, before the sale or exportation thereof, be carefully inspected and examined by one of the inspectors and repackers of beef and pork for the time being, who shall pass as merchantable, and brand as is before directed, each and every barrel and half-barrel, being of the materials and dimensions herein before directed and described, and which shall respectively contain the quantity and quality of salted beef or pork herein before mentioned and re-

quired, packed and secured in the manner aforesaid; and the said inspectors and repackers are hereby required and directed to examine and repack and brand as aforesaid, all such beef or pork brought to them for inspection or repacking, although the same may not be intended to be exported as aforesaid to any foreign market.

1802.

8. *And be it enacted*, That no beef or pork shall be repacked until the same has been in salt a sufficient time before such repacking, and every inspector and repacker of beef and pork shall carefully secure his branding irons, so as to put it out of the power of his servants and others to obtain and make use of the same contrary to the true intent and meaning of this act.

To be a sufficient time in salt.

Branding irons to be secured.

9. *And be it enacted*, That all beef and pork repacked between the first day of April and the first day of November, in every year, shall, at the time of repacking the same, be pickled with a good, strong pickle, made of salt not finer than Lisbon salt, and each barrel and half-barrel shall be well trimmed and secured as before directed.

When beef and pork shall be pickled.

10. *And be it enacted*, That it shall be lawful for every inspector and repacker of beef and pork to demand and receive from the owners thereof, for inspecting and repacking every barrel of beef or pork, twenty cents, and for every half-barrel of beef or pork, twelve cents, if repacked in the store provided by them, and for inspecting and repacking every barrel of beef or pork, if inspected and repacked in any store, yard or vessel, other than their own, twenty-five cents, and for every half-barrel, fifteen cents; for each hoop wanting and put on by the repacker, six cents; for flagging, nailing, pegging and pickling each barrel, ten cents, and for flagging, nailing, pegging and pickling each half-barrel, six cents, the owner finding or paying for the salt.

Compensation to the inspector and repacker.

11. *And be it enacted*, That no person shall use casks which have been emptied, after being branded as aforesaid, a second time, unless they shall first erase, scratch out, and effectually deface the repacker's brand off and from every such cask, under the penalty of fifty dollars for every such cask so used.

Casks not to be used a second time.

12. *And be it enacted*, That if any inspector and repacker of beef and pork, shall neglect or delay to repack any beef or pork, when thereunto required by the owner or possessor thereof, for the space of forty-eight hours, every such inspector and repacker shall, for each neglect, pay to such owner the sum of five dollars per barrel.

Penalty for neglect or delay,

13. *And be it enacted*, That for every offence which the said repackers shall commit against the true intent and meaning of this law, and be thereof convicted, he or they, so offending, shall forfeit fifty dollars, and be rendered incapable of serving again in the said office.

and for offences

14. *And be it enacted*, That if any person or persons shall, at any time, intermix, take out or shift, any beef or pork, that has been repacked and branded as aforesaid, every person so taking out, intermixing and fraudulently shifting such beef or

on persons for shifting or mixing,

1803-4. pork, and being thereof convicted, shall forfeit and pay four-fold the value of the beef or pork so taken out, intermixed or shifted.

and branding
without autho-
rity.

15. *And be it enacted*, That if any person or persons, other than the said inspectors and repackers, shall brand any casks of beef or pork whatever, in the manner directed by this act, every person so offending shall forfeit the sum of twenty dollars for every cask so branded.

Penalties, how
applied.

16. *And be it enacted*, That all the forfeitures and penalties aforesaid shall and may be recovered, with costs of suit, in any court having cognizance thereof, by any person or persons who will sue and prosecute for the same to effect; one half of which said forfeitures and penalties, when recovered, shall be paid to the overseers of the poor of the town or place where the offence shall be committed, for the use of the poor thereof, and the other half to such person or persons who will sue for the same as aforesaid.

PAM. 232.
BLOOM. 39.

AN ACT for the more equal representation of the county of Essex, in the general assembly of this state.

Passed the 10th of November, 1803.

County of Es-
sex to send
four represent-
atives.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That on the second Tuesday of October next, and on the second Tuesday of October annually thereafter, the people of the county of Essex, entitled to vote, shall elect four persons to represent them in the general assembly of this state, any law, usage or custom to the contrary notwithstanding.

PAM. 244.
BLOOM. 101.

AN ACT to incorporate parts of the townships of Roxbury and Pequannock, in the county of Morris, into a separate township, to be called the township of Jefferson.

Passed the 11th of February, 1804.

Boundaries.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all that part of the townships of Roxbury and Pequannock, in the county of Morris, lying within the following boundaries, to wit: beginning at the great cove on the east side of the Great pond, thence running a straight line to the mouth of Stephen's brook, where it empties into Rockaway river; thence from the mouth of Stephen's brook a straight line to the top of the Green pond mountain, where the road crosses the same near Mrs. Jane Decamp's; thence along the top of said mountain to the Bergen line; thence along the Bergen line, to the Sussex county line; thence down the lines between Morris and Sussex counties, to the place of beginning, shall be, and the same is hereby set off

from the townships of Roxbury and Pequannock, and the same is hereby established a separate township, to be called by the name of "The township of Jefferson."

1804.

Name.

2, 3, 4. Supplied and executed.

AN ACT to ratify an amendment of the constitution of the United States.

PAM. 284.
BLOOM. 109.

Passed the 22d of February, 1804.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the amendment to the constitution of the United States, proposed at the first session of the eighth congress, by a resolution of the senate and house of representatives of the United States, in congress assembled, to the several state legislatures, be, and the same is hereby, upon the part of this legislature, ratified and made a part of the constitution of the United States; which amendment is in the following words, to wit:—

The amendment to the constitution recommended by congress, ratified by this state.

"The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following; then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

Manner of electing the president and vice-president.

"The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the pur-

1804. pose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

No person ineligible for president shall be eligible for vice-president.

"But no person constitutionally ineligible to the office of president, shall be eligible to that of vice-president of the United States."

PAM. 286.
BLOOM. 111.

AN ACT to regulate the shad-fisheries on South-River, in the county of Middlesex.

Passed the 22d of February, 1804.

No person to set any net, seine, or other device, across said river ;

nor any hoop-net, wear, or fike, further into the river than the channel ; nor to beat or drive said river.

Penalty.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act it shall not be lawful for any person or persons to set any net, seine, or other device across said river, nor any hoop-net, wear or fike, further into the same, than the edge of the channel thereof, on the same side where such hoop-net, wear or fike is set or constructed; and shall neither beat nor drive said river in any manner, in order to molest or disturb the natural run of shad or fish in any part of the same.

2. And be it enacted, That if any person or persons shall offend against this act, or any part thereof, he, she, or they, so offending, and for every such offence, shall forfeit and pay the sum of forty dollars, with costs of suit, to be sued for and recovered in the name of any person who shall make complaint thereof, before any justice of the peace in said county, the one half to the prosecutor and the other half to the overseer of the poor, to and for the use of the poor of the township wherein such offence was committed.

PAM. 315.
BLOOM. 112.

AN ACT to incorporate parts of the townships of Westfield and Elizabeth-Town, in the county of Essex, into a separate township, to be called "The township of Rahway."

Passed the 27th of February, 1804.

Boundaries.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the townships of Westfield and Elizabeth-Town, lying within the following lines, to wit: beginning at the bridge that crosses Rahway river, a small distance below Elias Williams' saw-mill, from thence running south, thirty-eight degrees and five minutes west, one hundred and seventy chains and nine links to John Ross' mill-pond, on Robertson's branch; thence south-westerly along up said branch as it runs until it comes to the county line between Essex and Middlesex; thence along the said county line, as it runs, north eighty-seven degrees east, three hundred and fifty-five chains and thirty-three links to

1804.

Mordecai Marsh's mill-pond on Rahway river; thence along down the said Rahway river to the sound; thence up the sound to the mouth of Thompson's creek, near Halsted's point; thence along up said creek to Dr. Isaac Morse's mills; thence continuing along up said creek to a bridge crossing the same in the lower road leading from Rahway to Elizabeth-Town; thence along the lower road as it runs, north thirty-five degrees and thirty minutes west, forty-six chains and seventy links, to land late of Benjamin Winants, deceased; thence running north, fifty-one degrees and forty-eight minutes west, one hundred and five chains and thirty-one links to where formerly stood the sign-post to the eastward of the Wheat-sheaf tavern; thence crossing the main road to the road leading to Raritan; thence along said road by the dwelling-house of Abraham Clark, esquire, deceased, and Robert Clark, until it comes to the school-house, standing on the westernmost corner of the plantation, formerly belonging to Samuel Williams, deceased, by the road; thence running north seventy degrees west, one hundred and eighteen chains to Rahway river, near Jeremiah Garthwaite's dwelling-house; thence running along down Rahway river as it runs to the aforesaid bridge, the place where it first began, shall be, and hereby is set off from the townships of Westfield and Elizabeth-Town, and made a separate township, to be called "The township of Rahway."

Name.

2, 3, 4. Supplied and executed.

AN ACT respecting clerks in chancery and clerks of the supreme court.

PAB. 381.
BLOOM. 114.

Passed the 27th of February, 1804.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, every person who shall be appointed clerk in chancery, or clerk of the supreme court, shall, before he enters upon the execution of his office, or be admitted to take the oath or affirmation prescribed by law to be taken for the due and faithful discharge of his said office, if a clerk in chancery, before the chancellor, for the time being, and if a clerk of the supreme court, before one of the justices of the supreme court, enter into bond to the state of New-Jersey, with at least two good and sufficient sureties, being freeholders in said state, jointly and severally, in the sum of five thousand dollars, to be approved of by the said chancellor, or the said justice of the supreme court; which bond, with the condition thereof, shall be in the form herein after mentioned; and when so executed, shall, together with the oath or affirmation of office, when subscribed, be recorded in the secretary's office, and filed in the same, to be by him kept among the public papers of his office.

Clerks in chancery and of the supreme court hereafter appointed to give bond with sureties.

2. And be it enacted, That the bond to be entered into as aforesaid, by the said clerk in chancery, or the said clerk of the

1804.

Form of bond.

supreme court, and their sureties, with the condition thereof, shall be in the form following, that is to say :

Know all men by these presents, that we A. B., C. D. and E. F. of are held and firmly bound unto the state of New-Jersey, in the sum of five thousand dollars, money of the United States, to be paid unto the said state of New-Jersey; to the which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents: sealed with our seals, dated the day of in the year of our Lord, one thousand eight hundred and

The condition of this obligation is such, that if the above bounden A. B. shall well and truly execute the office of clerk in chancery, or clerk of the supreme court (as the case may be) of the state of New-Jersey, and in all things touching and concerning the said office, shall well and truly, faithfully and impartially, execute and perform the same, according to law, as well with respect to all persons concerned, as to the said state of New-Jersey, and at the expiration of his said office, shall deliver all moneys deposited in his office, together with the books, papers and records remaining in the same, or appertaining thereto, to his successor in office, then this obligation to be void, otherwise to be and remain in full force and virtue.

The present clerks to give bond with sureties.

3. *And be it enacted*, That the present clerk in chancery, and the present clerk of the supreme court, shall within twenty days after the passing of this act, enter into bond to the state of New-Jersey, and deposit the same in the secretary's office in the manner herein before prescribed.

Said clerks to make out and set up in their offices copies of all the fees they are entitled by law to receive.

4. *And be it enacted*, That the said clerk in chancery, and the said clerk of the supreme court, shall make out in writing, a fair copy of all the fees he is by law entitled to receive, and shall set the same up in public view in said office, which shall there remain for the information of all concerned.

Clerks in chancery and of the supreme court, to reside in Trenton.

5. *And be it enacted*, That the present clerk in chancery, and the present clerk of the supreme court, and every person who shall hereafter be appointed clerk in chancery, or clerk of the supreme court, shall reside, and keep his office within the city of Trenton.

PAM. 325.
BLOOM. 116.

AN ACT to provide for the establishment of markets for the sale of live-stock, in the several counties of this state.

Passed the 29th of February, 1804.

The boards of chosen freeholders may institute markets for the sale of live-stock,

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for the board of chosen freeholders of each and every county of this state, to institute a market, once or oftener in every year, at any place or places within the said county, which in the opinion of the said board, may be

most convenient for the sale of live-stock, namely, horses, cattle, sheep, and hogs, from the hour of eight in the morning until four in the afternoon, of any number of successive days, not exceeding four, which the said board may appoint; which time and place shall be advertised in three of the most public places in the county, at least thirty days previous to the time appointed for holding the said market.

1804.

2. *And be it enacted*, That it shall and may be lawful for the said board of chosen freeholders to pass ordinances and by-laws, for the regulation of said markets: *Provided*, That the same be not repugnant to the constitution and laws of the United States, or of this state, and that the powers hereby granted to the chosen freeholders of any county, shall not extend to or interfere with the powers granted to the corporation of the city of New-Brunswick, by an act, entitled "An act to institute a market at the city of New-Brunswick for the sale of live-stock," passed the twenty-third day of November, eighteen hundred and two.

and pass by-laws and ordinances for regulating the same.

Proviso.

See ante 513.

AN ACT to repeal part of an act, entitled "An act further to regulate fees."

PAM. 351.
BLOOM. 80.

Passed the 1st of March, 1804.

BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the fourth section of the act, entitled "An act further to regulate fees," passed the thirtieth of November, in the year of our Lord, eighteen hundred and one, be, and the same is hereby repealed.

Fourth section of said act repealed.

See ante 512.

AN ACT to incorporate "The Associates of the Jersey Company."

PAM. 367.
BLOOM. 125.

Passed the 10th of November, 1804.

8. *And be it further enacted*, That the clerk of the county of Bergen shall appoint a deputy, who shall be sworn as such, and reside and keep an office at some place within the district of country formerly distinguished by the name of the Island of Horsimus, and which includes Powles-Hook, and which island is constituted and surrounded by a certain creek called the Creek of the Woods, or Horsimus Creek, and shall keep a proper book or books for the recording of all deeds, mortgages and other writings, which may hereafter be made or executed, relating to any real estate situated within the said district or any part thereof, and all deeds, mortgages, and other writings, relating to any such real estates, being proved or acknowledged, as the same are required to be proved or acknowledged by the laws of this state, for the purpose of recording or registering the same, and being recorded or registered in the said book or books, shall be as valid and effectual in the law as if the same were recorded or

Clerk of Bergen county to appoint a deputy to reside and keep an office on Horsimus Island.

To record deeds, mortgages, &c.

1804.

registered in the clerk's office of the said county of Bergen, and it shall be the duty of such deputy so to record or register the same; and the said clerk of the said county shall be responsible for the conduct of every such deputy to be appointed by him, and be entitled to the like fees as in other cases for the like services: *Provided always*, That no deed, mortgage, or other instrument in writing, respecting and containing land not situated within the district aforesaid, shall be recorded in the office hereby established.

PAM. 360.
BLOOM. 136.

AN ACT concerning contracts of real estate, made by testators and intestates in their life-time.

Passed the 13th of November, 1804.

Application
for fulfilment
of any con-
tract, to be
made to the
orphans'
court, after
advertis-
ement made.

Court to order
proclamation
for two terms.

Court may
decree a ful-
filment of the
contract,

and order a
deed to be
made for such
lands.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That where any testator or intestate hath heretofore or hereafter may, in his or her life-time, have entered into a written contract, properly attested by two or more witnesses, for the sale or conveyance of any land lying and being within this state, it shall be lawful for the executors or administrators of every such testator or intestate, or for the purchaser or claimant of such land as aforesaid, after advertising the intention of their application, at least two months in five of the most public places in the county where the said lands shall lie, and at least in one of the public newspapers in circulation in said county, to apply to the judges of the orphans' court holden for said county, producing the said contract to the court, and it shall be the duty of the judges of the said court to order proclamation to be made in open court, for two terms successively, of the purport of the application so made, that if any person or persons can shew cause why the request of the applicant or applicants should not be granted, such person or persons may appear and support the same, at least within the third term after the application has been so made.

2. *And be it enacted*, That the said claimant or claimants, or their legal representatives, or the legal representatives of the deceased, or either of them, may appear before the said court, who shall hear the allegations (or objections, if any) of said parties, and if the court shall find no sufficient cause to the contrary, they shall decree the fulfilment of the contract, and give judgment accordingly; which decree and judgment, together with the contract, shall be entered of record in the minutes of the court, and the contract shall be filed in the clerk's office of said court, and the court shall thereupon order the executors or administrators, the survivor or survivors of them, or the legal representatives of the deceased, (upon the purchase money being paid or secured to be paid, agreeably to the tenor of such contract) to make as good and sufficient a deed of conveyance to the claimant or claimants, as the testator or intestate, in his or her life-time, could have done, any act or usage to the contrary notwithstanding.

3. *And be it enacted*, That the said court, for every such procedure or adjudication, shall be entitled to receive the same fees as are allowed by law for directing the sale of lands by said court, to be paid equally by the parties so concerned.

1804-5.

Fees of court.

AN ACT concerning the surrogate's office in the several counties of this state.

PAM. 431.

BLOOM. 140.

Passed the 1st of December, 1804.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That in every county of this state, where an office hath been or hereafter may be built, at the expense of any county in this state, of materials not liable to be destroyed by fire, and the same is or shall be finished and completed so as to contain two convenient apartments, one for the use of the clerk of the county, and the other for the use of the surrogate of the said county, and the same be situate within half a mile of the court-house of the respective county, the surrogates of the several counties, and their successors in office, shall and they are hereby required, upon notice in writing being given the said surrogate by the director of the board of chosen freeholders, to remove to the office so provided, all the books, records and papers appertaining to the office of the respective surrogate.

In counties where a fire-proof office is or shall be erected, surrogate to remove his papers thereto.

2. *And be it enacted*, That if any surrogate in any county of this state, shall neglect or refuse, for the space of thirty days after receiving notice as aforesaid, to remove all the books, records and papers appertaining to his said office, to the office which hath been or may be built and completed as aforesaid, every surrogate so offending shall forfeit and pay for each day he shall so neglect or refuse, after the expiration of the said thirty days, the sum of ten dollars, to be sued for and recovered by the director of the board of chosen freeholders, in the county where the delinquency shall happen, in his own name, to be applied, when recovered, to and for the use of the county.

Penalty.

3. Executed.

AN ACT to repeal an act, entitled "An act to confirm and establish the charter rights and privileges of the borough of Elizabeth," so far as the same extends to that part of the said borough lying within the limits of the township of Rahway.

PAM. 491.

BLOOM. 144.

See ante 97.

Passed the 6th of November, 1805.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the act, entitled "An act to establish and confirm the charter rights and privileges of the borough of Elizabeth," passed the twenty-eighth day of November, in the year of our Lord,

1805-6. seventeen hundred and eighty-nine, so far as the said act includes and relates to that part of the said borough lying within the limits of the, township of Rahway, be and the same is hereby repealed.

PAM. 504.
BLOOM. 145.

AN ACT to erect and set off a new township from the township of Mendham, in the county of Morris, to be known by the name of the township of Randolph.

Passed the 13th of November, 1805.

WHEREAS a number of the inhabitants of the township of Mendham, in the county of Morris, by their petition have set forth, that they have long labored under many and great difficulties by reason of the great length of the said township; for remedy WHEREOF—

Boundaries.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That all that part of the township of Mendham, in the county of Morris, lying to the northward of the following line, to wit: beginning in the line of the township of Chester, at or near a bridge on the western side of the township of Mendham, known by the name of Horton's bridge, and thence running north eighty degrees forty-two minutes east, to a place one rod north of Nathaniel Clark's dwelling-house, and from thence on the same course to the line of the township of Morris, in said county, shall be set off from the township of Mendham, and the same shall be made a separate township, to be called and known by the name of "The township of Randolph."

Name.

2, 3, 4. Executed and supplied.

PAM. 528.
BLOOM. 147.

AN ACT to erect and set off a new township from the townships of Hanover and Morris, in the county of Morris.

Passed the 12th of February, 1806.

Bounds.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That all the district of the above townships of Hanover and Morris, included within the following limits, viz. beginning at a pin-oak tree, standing on the bank of the Passaic river, on lands of Robert Moore, near the corner of Moses Stiles, about half a mile above Col. Cook's bridge, and running thence, south eighty-nine degrees west, to a cherry tree in the north-west corner of the garden, late the property of Dr. Bern Budd, deceased; thence in a direct line to the cross-roads by Daniel Crane's on Loantica hill; from thence south, eighteen degrees west, forty-seven chains and fifty links, to a stake and heap of stones on the brow of the hill back of Zophar Freeman's house, from thence south, five degrees and thirty minutes east, to the line of Aaron Ball, esquire, on Long hill, thence, on the same course, to the Passaic

river to the corner of land of the widow Dunham, and land of Nathaniel Little, late the property of Jacob Brittin, deceased, a small distance above Bedell's bridge; thence down the river to the place of beginning, be, and the same is hereby set off from the above townships of Hanover and Morris, and erected into a separate township, to be known by the name of "The township of Chatham."

1806.

Name.

2, 3, 4. Supplied and executed.

AN ACT to incorporate parts of the townships of Bridgewater and Bernard, in the county of Somerset, into a separate township, to be called the township of Warren.

PAM. 600.
BLOOM. 148.

Passed the 5th of March, 1806.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the townships of Bridgewater and Bernard, lying within the following boundaries, to wit: beginning at Passaic river, at the corner of Somerset and Essex counties, thence up said river to Dead river, on the line between Somerset and Morris; thence up Dead river to the bridge over the same, near the house of Thomas Gaultry; thence on the road southerly two hundred and thirty chains, to Bridgewater line, and along the same as it runs on the top of the second mountain, to the brook below Aaron Corn's mill; thence down said brook seventy chains, to the east branch of Middlebrook to Moses Riggs' saw-mill pond; thence south forty-eight degrees east, one hundred chains to Boundbrook; thence up the same on the line of Somerset and Middlesex to Greenbrook; thence up Greenbrook between Somerset and Middlesex, and Somerset and Essex, to the head of Greenbrook; thence north eighteen degrees west, one hundred and twenty-five chains to the place of beginning, shall be, and the same is hereby set off from the townships of Bridgewater and Bernard, and the same is hereby established a separate township, to be called by the name of "The township of Warren." Bounds.

2, 3, 4. Supplied and executed.

AN ACT to alter the boundary line between the townships of Randolph and Chester, in the county of Morris.

PAM. 668.
BLOOM. 146.

Passed the 5th of March, 1806.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Randolph, in the county of Morris, lying west of the following line, beginning at the bridge of William Coleman, thence up the line between Thomas Logan and Barnabas Horton, until it strikes the road at the bridge near Elias Briant's, thence up the road on the line of Barnabas Horton, until it strikes the line of the township of Chester, be, and is hereby set off and annexed to the township of Chester.

1806.

PAM. 670.
BLOOM. 160.
See ante 453.

A SUPPLEMENT to the act, entitled "An act relative to the supreme and circuit courts," passed the sixth day of June, seventeen hundred and ninety-nine.

Passed the 10th of March, 1806.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the supreme court of this state, shall consist of a chief justice and two associate justices.

2. And be it enacted, That that part of the act, entitled "An act relative to the supreme and circuit courts," passed the sixth day of June, in the year seventeen hundred and ninety-nine, which requires that the supreme court of this state shall consist of a chief justice and three associate justices, shall be, and the same is hereby repealed.

PAM. 688.
BLOOM. 170.

AN ACT for the publication of law reports.

Passed the 12th of March, 1806.

Preamble.

WHEREAS the publication of the reports of adjudicated cases in the supreme court of judicature of this state, especially those that relate to causes removed from the courts for the trial of small causes into the said supreme court, is highly necessary for the information of the citizens of this state, as also for the justices of the said courts for the trial of small causes, the suitors and officers thereof: THEREFORE—

Reporter to be appointed.

His duties.

Reports to be printed.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, there shall be appointed by the joint-meeting of the council and general assembly of this state, and commissioned by the governor of the same, annually,* a fit and proper person, skilled in the laws of this state, to collect and compile in regular order, all such cases as shall be adjudicated in the said supreme court, with the opinion of the justices of the said court thereon, as shall arise on causes removed from the several courts for the trial of small causes in the several counties in this state, by certiorari, as he shall think will tend to promulgate useful information to the citizens of this state; and also to collect and compile as aforesaid, the cases on all other important and intricate subjects, with the opinions of the justices of the said court thereon; and to furnish the printer of the state laws, with such cases and opinions, regularly digested, with a proper index to the same, yearly; and it shall be the duty of the said printer, to print the same with the said laws, at the end thereof, that they may be distributed in the same manner as the said laws are distributed, for which the said printer shall be compensated at the same rate, and in the same manner as for printing the laws of this state.

* See act, 1st March, 1820.

2. *And be it enacted*, That it shall be the duty of the justices of the said supreme court, from time to time, to furnish the person so as aforesaid appointed, with the reasons in writing, for the reversal or affirmance of all judgments brought into the said supreme court by certiorari, directed to any justice of any court for the trial of small causes, and also their opinions in writing, on all important and intricate cases determined by them in the said court.

1806.

Justices of the supreme court to furnish their judgments and opinions.

3. Repealed, and supplied by act, 1st March, 1820.

AN ACT to incorporate a part of the township of Newark, in the county of Essex, into a separate township, to be called the township of Orange.

PAM. 737.
BLOOM. 173.

Passed the 27th of November, 1806.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the township of Newark, in the county of Essex, lying and being within the following boundaries, to wit: beginning at a spring called the Boiling Spring, on the land of Stephen D. Day, running thence in a straight line southwardly to the bridge in the highway near David Peck's; thence running southwardly in a straight line to a bridge in the highway near Sayres Roberts, in Camptown; thence southwardly in a straight line to Elizabeth township line, where it crosses Elizabeth river; thence along the line of Elizabeth township to the line of Springfield township; thence along the same to the line of Caldwell township; thence along the line of said township to a point on the first mountain called Stephen Crane's Notch; thence southwardly to Turkey Eagle rock; thence eastwardly to a bridge in the highway near Phineas Crane's; thence eastwardly to a bridge in the highway between the house of Silas Dod and Nathaniel Dod; thence in a straight line to the Boiling Spring, the place of beginning; shall be, and the same is hereby set off from the township of Newark, and the same is hereby established a separate township, to be called "The township of Orange."

Boundaries.

Name.

2, 3, 4. Supplied and executed.

A SUPPLEMENT to an act, entitled "An act to enable the owners of tide swamps and marshes to improve the same; and the owners of meadow already banked in, and held by different persons to keep the same in good repair," passed the twenty-ninth day of November, one thousand seven hundred and eighty-eight.

PAM. 739.
See ante 82.

Passed the 27th of November, 1806.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall be lawful for the owners or possessors of two-thirds of any body of meadow, who have subjected, or shall subject

Acceptance of this act, how to be certified.

1806.

themselves to the before recited act, and in all cases where the commissioners have, or may lay off to each owner or possessor their proportion of such bank, sluices, water-works, and water-courses to uphold and maintain, to certify under their hands to the clerk of the court of the county in which such meadow shall lie, that they have agreed to become subject to this supplement; which certificate it shall be the duty of such clerk to record in the road-book of such county, for which he shall receive the same fees per sheet as are allowed by law for the recording of deeds.

Meeting to
choose man-
agers and clerk.

2. *And be it enacted*, That after such a certificate shall have been recorded as aforesaid, it shall be lawful for any owner or possessor to call a meeting of such company by serving each owner or possessor with a notice in writing or leaving the same at his or her dwelling-house or usual place of abode, setting forth the time and place of such meeting, at which time and place the said company shall, by plurality of voices of those who shall meet, proceed to the choice of two managers, being owners or possessors in the said company, to continue for the term of one year, or till others shall be chosen; and in case of the death, removal or disability of any manager chosen in manner aforesaid, a meeting of the company may be called in the manner herein before directed, for the purpose of choosing a manager to supply such vacancy, and every manager so chosen shall be vested with the same powers, perform the same duties, and be subject to the same penalties as if he had been elected in the manner herein before mentioned, or at any annual meeting of the company; and the said company shall choose a clerk in the same manner as managers are hereby directed to be chosen, who shall record all their proceedings in a book to be provided for that purpose; and every manager in performing any of the duties in this act required, shall receive one dollar per day, and in case of neglect or refusal to perform such duties after being thereunto required, he shall forfeit and pay for every such neglect or refusal the sum of fifteen dollars, to be recovered by action of debt, by any owner or possessor who shall sue for the same, to be applied toward the support of the sluices and water-works of the company.

Fees and pen-
alties.

Duties of ma-
nagers.

3. *And be it enacted*, That it shall and may be lawful for all managers appointed agreeably to this act, to view the banks, water-works and water-courses, and to see that they are kept in good repair, and if any owner or possessor shall neglect or refuse to repair his or her bank, water-works, or water-courses laid off to him or her as aforesaid, then it shall be lawful for the manager or managers, after five days notice in writing, being given to such owner or possessor, to enter on the premises and do all such repairs as may be necessary; and it shall be the duty of the managers to stop, mend or put up, any breach in the bank of any owner or possessor without delay, if the person having such breach shall not immediately proceed to stop the same, and in performing any of the said duties he shall do as little injury to the owners of the soil as possible; and it shall be the duty of the managers to erect any wharf or wharves that may be necessary

for the preservation of the bank, and to cause the bank to be mowed and kept clear of brush and rubbish.

1806.

4. *And be it enacted*, That when any manager appointed as aforesaid shall have done any repairs to the bank, water-works or water-courses, or have stopped any breach in the bank, or erected any wharf or wharves for the preservation of the bank of any owner or possessor so laid off to him or her to maintain and uphold, he shall within ten days after the completing thereof, present his account for such repairs, to such owner or possessor, which account shall be attested by his oath or affirmation, if required; and if such owner or possessor shall neglect or refuse to discharge the same within twenty days thereafter, then it shall be lawful for such manager, on five days notice being given by public advertisement in five of the most public places in the neighborhood, to sell at public vendue, so much grass as may be on said owner's or possessor's meadow as will be sufficient to discharge such demand, but if the grass on the meadow should not be sufficient to satisfy the same, then to lease at public vendue as aforesaid, so much of the meadow of such owner or possessor, as will be sufficient to discharge such demand, with reasonable cost, to any person who will pay such demand for the shortest term; and it shall be lawful for such manager to make and execute a lease to such purchaser for such term, which said lease shall be good and effectual in law, and shall vest the possession thereof in the purchaser, and bar the owner and all others during the term. And in all places where a sluice, dam, stopping, or water-works, is or shall be laid off, to be supported or upheld by a certain portion of said meadow, or the owners or possessors thereof, it shall be the duty of any manager appointed as aforesaid, to stop any breach in such dam, and to erect and lay any new sluice or erect any other water-works that may be necessary, and to keep the whole in good repair; and to enable such manager to do and perform the same, it shall be lawful for him to make assessments from time to time on the valuation of each owner's or possessor's meadow made by the commissioners under the before recited act; and in case any owner or possessor shall neglect or refuse to pay or discharge the sum for which he or she may be so charged on any such assessment, then it shall be lawful for the said manager to proceed against him or her for the recovery thereof, in the manner herein before mentioned, or by action of debt, in which case he shall produce the assessment in evidence, and it shall be necessary, in either case, before he shall proceed, that his account shall be attested by his oath or affirmation; and that every such manager shall, at the annual meeting of the said company, produce such assessment, together with an account of his expenditures for the preceding year, and pay over the balance, if any in his hands, to the succeeding manager or managers, to be appropriated to the purposes for which such assessments were made.

Accounts for repairing, how to be recovered.

Further duty of managers.

5. *And be it enacted*, That in all cases in which the operation of this supplement shall be commenced in the manner directed in the first section, it shall become a law of this state, any thing in the before recited act, to which this is a supplement, or any law, usage or custom, to the contrary notwithstanding.

When this act shall become a law.

1807.

PAM. 50.
BLOOM. 184.
See ante 364.

AN ACT to alter the time of holding the February term of the courts of common pleas and quarter-sessions of the peace, in the county of Cumberland.

Passed the 19th of November, 1807.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the courts of common pleas and general quarter-sessions of the peace, in and for the county of Cumberland, shall be held annually on the third Tuesday of February, instead of the last Tuesday, as heretofore, any thing in any former law to the contrary notwithstanding.

PAM. 51.
BLOOM. 184.

AN ACT to prohibit tavern-keepers, store-keepers, confectioners and hucksters from entertaining minors under the age of twenty-one years at colleges, academies and schools, for the purposes of instruction, and from selling to them strong drinks.

Passed the 20th of November, 1807.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall be unlawful for any tavern-keeper in this state, to receive and entertain at his or her house of public entertainment, any minor under the age of twenty-one years, who is a scholar or member of any college, academy or school within this state: and if any such tavern-keeper shall receive and entertain any such minor or scholar, or sell, or directly or indirectly supply him with any wine, ardent spirits, porter or strong drink of any kind, he or she shall for each offence forfeit and pay the sum of ten dollars, to be recovered by action of debt, with costs of suit, by the parent or guardian of such minor, or by any other person who shall sue for the same, one half of which penalty shall belong to the person so prosecuting, and the other half to the college, academy or school, of which such minor may be a member. Provided always, That nothing in this act, shall prevent the reasonable entertainment of such minor in coming to, or returning from such college, academy or school, and until he is provided with lodging and board, according to the usage and practice of such college, academy or school.

Tavern-keepers not to entertain minors who are scholars, &c.

Penalty.

Proviso.

Store-keepers, &c. not to supply such minors with strong drink.

2. And be it enacted, That from and after the passing of this act, it shall be unlawful for any store-keeper, confectioner, or huckster within this state, to sell, or directly or indirectly to supply any minor, who is a member of any college, academy or school, within this state, at the place where such college, academy or school is situate, or within three miles therefrom, with any wine, ardent spirits, porter, or other strong drink, without the special permission in writing, of the president, principal master, or teacher of the said college, academy or school: and if any store-keeper, confectioner or huckster, shall sell, or directly or indirectly supply any such minor, with the said liquors, or any

of them, without such permission, he or she shall for each offence forfeit the sum of ten dollars, to be recovered by action of debt, with costs of suit, by any such parent or guardian, or by any other person who shall sue for the same, one half of which penalty shall belong to the person so prosecuting, and the other half to the college, academy or school of which such minor is a member.

1807.

Penalty.

AN ACT to preserve and support the jurisdiction of this state.

Passed the 3d of December, 1807.

PAM. 18.

BLOOM. 177.

WHEREAS the meetings of the commissioners lately appointed on the part of this state, and of the state of New-York, respectively, have failed to produce an amicable adjustment of the eastern boundary line of this state; *And whereas*, it has now become highly expedient to bring the existing controversy respecting the said boundary line, to a legal conclusion and determination, and in the mean time necessary to preserve the lawful jurisdiction of this state, free from all interruption and usurpation; **THEREFORE—**

Preamble.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the boundary lines of the county of Bergen, are hereby declared to be the middle or midway of the waters adjoining the said county.

Boundary line.

2. And be it enacted, That if any person not authorized under the authority of this state, or of the United States, shall execute, or attempt to execute any legal process within the state of New-Jersey, such person shall be deemed guilty of a misdemeanor, and being thereof duly convicted, shall be sentenced to pay a fine not exceeding two thousand dollars, and to imprisonment at hard labor in the state prison not exceeding seven years: *Provided*, That nothing in this act shall extend to any person who shall serve a process for the attendance of a witness before any court of justice, or may be proceeding against any person who has escaped or may be attempting to escape from his bail.

Penalty for intrusion.

3. And be it enacted, That it shall be the duty of all magistrates, sheriffs and constables within this state, to cause to be apprehended and secured for trial, all offenders against this act.

Duty of magistrates.

4. And be it enacted, That the sum of three thousand dollars be appropriated under the direction of the governor of this state, for the time being, who is hereby authorized and empowered, at his discretion, to prosecute and defend to final issue or judgment, any suit or suits which he may deem necessary for trying and finally determining the said jurisdictional line between this state and the state of New-York.

Appropriation of money.

5. And be it enacted, That if the state of New-York shall, at any time before the first day of May next, empower commissioners to renew or enter into friendly negotiation with the state

Negotiation.

1807.

of New-Jersey, for the settlement of the aforesaid eastern boundary, it shall in that case be lawful for the governor, or person administering the government of this state, on receiving due notice thereof, to renew the powers of the commissioners appointed for that purpose at the last session of the legislature, and to authorize them to settle the controversy; and that he be also empowered to stay proceedings at law, if he deem it expedient, whilst such negotiations are pending.

See supplement, 30th January, 1818: also 25th February, 1820.

PAN. 40.
BLOOM. 39.

AN ACT directing the time and mode of electing electors of the president and vice-president of the United States, and representatives in congress on the part of this state.

Passed the 3d of December, 1807.

See act, Nov.
17, 1820.

Duty of county
clerks,

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the clerks of the courts of common pleas of the several counties of this state, shall attend at the court-house of their respective counties, on the first Monday of September next, and shall there receive, at any time between the hours of ten in the morning and five in the afternoon of the same day, from any person qualified to vote for members of the state legislature, for such county, a ticket containing the names of any number not exceeding eight persons, proposed as candidates for electors of president and vice-president of the United States, on the part of this state; also, in like manner, on the same ticket, the names of any number of persons not exceeding six, proposed as candidates to represent this state in the house of representatives of the eleventh congress of the United States; which ticket such person or persons shall subscribe with his or their names, and may either deliver personally or transmit by letter to the said clerks.

of governor,

2. *And be it enacted,* That the respective clerks aforesaid shall, within ten days thereafter, transmit to the governor, or person administering the government of this state, at the expense of the state, a true copy of all the tickets by him respectively so received; and the said governor, or person administering the government, shall, at the expense of the state, in ten days thereafter, transmit a true list of all the names, so nominated as candidates for the electors of the president and vice-president of the United States, and also of the names so nominated as candidates for the representatives of the eleventh congress of the United States, in the several counties, to the clerk of each county in this state, who upon receipt of the same, shall forthwith forward a copy thereof, to the clerk of each township in the county: copies of which list, the said clerks shall fourteen days previous to the election, cause to be put up in at least three of the most public places in the township, and such list shall be kept up during the continuance of the election, in public view.

of township
clerks.

3. *And be it enacted,* That the election for the electors and

representatives aforesaid, of the United States, on the part of this state, shall be by ballot, and exclusively from the persons so nominated; which ballot shall not contain more than eight names for electors of president and vice-president, nor more than six names for representatives to the eleventh congress of the United States, and shall commence at and be holden in each of the townships of the respective counties in this state, on the first Tuesday in November next, at the places where the last election for the state legislature shall have been holden in the respective townships, and shall be in all respects, unless where otherwise directed by this act, conducted according to the mode prescribed by the existing laws regulating the manner of conducting elections: and all persons offending against any of the provisions in said laws contained, shall be liable to the same pains and penalties for misconduct, neglect or refusal, and be entitled to the same compensation, as in and by the said laws are inflicted and allowed.

1807.

Election, how
to be conduct-
ed.

4. *And be it enacted*, That after the poll is closed, the judge and inspectors shall, together with the clerk of the election, proceed without delay, to take an account of, and cast up the votes given in for each candidate as an elector of president and vice-president of the United States, and also of each candidate as representative from this state, in the eleventh congress of the United States, and shall make separate lists of the same, which list they shall sign, certify, seal up, direct and transmit to the clerk of the county, who shall attend at the court-house of the county, on the Saturday next after the day of election, for the purpose of receiving the same, which list shall be delivered to him before five o'clock in the afternoon of said day, which said clerk shall then proceed in a public manner to make one general list of all the candidates voted for as aforesaid, together with the number of votes received for each of them, and shall transmit the same, at the expense of the state, to the governor or person administering the government, within seven days thereafter, having first caused a duplicate thereof to be filed in his office, together with the lists from the said townships.

Duty of offi-
cers of elec-
tion,

of clerk of
county,

5. *And be it enacted*, That the governor or person administering the government of this state, shall within five days after receiving the said list, lay the same before a privy council to be by him summoned for that purpose, and after casting up the whole number of votes from the several counties, for each candidate, the said governor, or person administering the government, and privy council, shall determine the eight persons who have the greatest number of votes from the whole state, for electors; which eight persons the governor or person administering the government, shall forthwith commission under the great seal of the state, to meet and vote for president and vice-president of the United States; and the governor or person administering the government, and privy council, shall also determine the six persons who have the greatest number of votes from the whole state, for representatives in congress of the United States, from this state; which six persons, the governor or person administering

of governor
and council.

1807.

the government, shall forthwith commission, under the great seal of the state, to represent this state in the house of representatives of the congress of the United States during the eleventh congress.

Vacancies,
how to be
filled.

6. *And be it enacted*, That if any vacancy or vacancies, by death, removal or otherwise, of such electors shall happen between the time of their election and the day which shall be fixed for the execution of the duties required of them by the constitution of the United States, it shall be lawful for the governor or person administering the government, to fill up such vacancy or vacancies which may so happen.

Future elec-
tions, how to
be conducted.

7. *And be it enacted*, That it shall be the duty of the clerks of the courts of common pleas, in the several counties of this state, on the first Monday in September of every second year, from the first Monday in September next, to receive nominations, in manner prescribed by the first section of this act, for persons to serve as representatives from this state in the congress of the United States, who shall be elected at the same time with the members of the state legislature, sheriffs and coroners, except when electors of president and vice-president are to be chosen, as is hereafter directed. And it shall be the duty of the said clerks, on the first Monday in September in every fourth year, from the first Monday in September next, to receive nominations as aforesaid, for persons to serve as electors of president and vice-president of the United States. And in every fourth year when electors are to be chosen, the representatives in congress shall be elected at the same time with said electors, and the election shall on these occasions commence on the first Tuesday in November, following the day of nomination, and in all respects be conducted as the election authorized by this act, to be holden on said first Tuesday in November next, is directed to be conducted. And whenever the time shall arrive to nominate and elect said representatives or said electors and representatives, the same duties are hereby enjoined on the clerks of the several counties and townships in this state, on the officers of election, on the governor or person administering the government, the privy council, and all other persons concerned, as are herein before prescribed by this act, or as shall be required by any law then in force; and the same fees and compensations are allowed, the same penalties and forfeitures incurred, and the same provisions, restrictions and regulations shall be observed, as are by this act directed.

Number of re-
presentatives.

8. *And be it enacted*, That the number of electors and representatives to be chosen by virtue of this act, at any time after the next election, shall be such as the state of New-Jersey may by the then existing laws of the United States be authorized to appoint.

Electors,
when and
where to
meet.

9. *And be it enacted*, That the electors so chosen, shall meet in the state-house at Trenton, on the day which the congress of the United States hath appointed, or shall appoint for that purpose, and shall then and there proceed to execute the duties and services required of them by the constitution of the United States,

in the manner therein prescribed; and the said electors shall receive for their services, the daily pay and other allowances which at such time shall be allowed by law to the members of the legislature of this state, to be paid by the treasurer of the state, on warrants to be signed by the president of said electors, and the warrant in favor of said president, signed by a majority of the electors.

1807.

10. *And be it enacted*, That all acts and parts of acts, coming within the purview of this act, be, and the same are hereby repealed. Repealing section.

AN ACT for the better regulation of fishing in the Hackensack river, in the county of Bergen.

PAN. 58.
BLOOM. 190.

Passed the 3d of December, 1807.

WHEREAS the laws for regulating the fisheries in Hackensack river, in the county of Bergen, heretofore passed, are found to be injurious to the inhabitants who are or may be entitled to the right of fishing in said river: for remedy WHEREOF—

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That from and after the passing of this act no person or persons, whatsoever, shall be allowed to affix, fasten or set any net or nets or other device or devices in said river that may tend to obstruct or hinder the fish from going up or down the same, which shall extend to more than one fourth part of the width of said river, at any one place, leaving the river free and clear of any such obstruction. *Provided always*, That nothing in this act contained shall extend to prevent any person or persons from drawing or sweeping with seines or nets as heretofore.

Obstructions not to be placed in the river.

2. *And be it enacted*, That all and every person or persons, whatsoever, who shall fix, fasten or set any net or nets, device or devices, or cause the same to be done, contrary to the provisions of the preceding section of this act, shall forfeit and pay the sum of fifteen dollars, for every such offence, to be recovered by action of debt, before any justice of the peace of said county, with cost of suit, to be applied one half thereof to the use of the poor of the township where the offence shall have been committed, and the other half to any person or persons who shall sue for and prosecute the same to effect.

Penalty.

3. *And be it enacted*, That the act, entitled "An act for the regulation of the fisheries in Hackensack river," passed the second day of November, seventeen hundred and eighty-six, and the supplement thereto, passed the twenty-seventh day of November, eighteen hundred and six, be, and the same are hereby repealed.

Former acts repealed.

See act, 26th January, 1816.

1807-8.

PAM. 74.
BLOOM. 192.
See ante 135.

SUPPLEMENT to the act, entitled "An act authorizing the justices of the supreme court to appoint commissioners to take special bail, and to administer oaths and affirmations in causes depending in the said court.

Passed the 4th of December, 1807.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That so much of the above recited act to which this is a supplement, as requires an affidavit to be administered by the clerk of the supreme court, of the due taking of the recognizance of bail or bail-piece, by some person present at the taking thereof, shall be, and the same is hereby repealed.

PAM. 72.
BLOOM. 197.
See ante 125.

AN ACT supplementary to an act, entitled "An act to incorporate a part of the township of Trenton, in the county of Hunterdon."

Passed the 22d of November, 1808.

WHEREAS the old gaol in Trenton has been converted into a banking-house, whereby the said city is deprived of a place of confinement for criminals or offenders against the law :
THEREFORE—

Mayor, &c.
may commit
to the new
gaol.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for the mayor, recorder, and aldermen of the said city, or either of them, to commit every person or persons, offender or offenders, whom by law they or either of them are authorized to commit to gaol or imprison, to and in the work-house now erecting on Academy street, in the said city, and the same is hereby declared to be the common gaol of the said city; and the keeper of the said gaol, to be appointed by the common council of the said city, is hereby required to receive such person or persons so committed, and him, her or them to keep in close and safe custody, until thence discharged by due course of law.

Said gaol de-
clared to be a
work-house.

2. *And be it enacted,* That the said work-house or common gaol herein before mentioned, shall be deemed, esteemed and taken to be a work-house, within the intent and meaning of the fifth, sixth and seventh sections of the act, entitled "An act for the establishment of work-houses in the several counties of this state," passed the twentieth of February, one thousand seven hundred and ninety-nine; and also of the act, entitled "An act to describe, apprehend and punish disorderly persons," passed the tenth of June, one thousand seven hundred and ninety-nine : *Provided,* That no magistrate but the mayor, recorder, and aldermen of said city, or either of them, shall have authority to commit any person to the said work-house.

Duties of the
keeper.

3. *And be it enacted,* That of the keeper of the said work-house or gaol, shall be required the same duties in respect to the

safe-keeping of the persons committed to his custody by virtue of this act, as are required of the sheriff or keeper of the common gaol of the several counties of this state; and the said keeper of the said work-house or gaol shall be subject to the same pains, penalties and forfeitures for failure of duty, misconduct in office, and voluntary or negligent escapes, to which the sheriff or keeper of the common gaol of the several counties of this state is by law subject and liable.

1808.

4. *And be it enacted*, That the mayor, recorder and aldermen of the said city of Trenton, and each of them, shall hereafter be deemed, esteemed and taken to be a justice of the peace within the intent and meaning of an act, entitled "An act constituting courts for the trial of small causes," passed the fifteenth of March, one thousand seven hundred and ninety-eight, and of the several acts supplementary thereto.

Mayor, &c.
justices of the
peace.

5. *And be it enacted*, That the territorial jurisdiction of the said mayor, recorder and aldermen, and every of them, shall be co-extensive with the limits of the said city of Trenton, and that they may, in causes depending before them, award writs of subpoena ad testificandum into any of the counties of this state; but that the said mayor, recorder and aldermen, or either of them, shall not have jurisdiction of any civil action where the defendant or defendants, or one of them, does not reside within the said limits.

Extent of their
jurisdiction.

6. *And be it enacted*, That it shall be the duty of the marshal and of the constables of the said city to execute and return all precepts, summons, warrants, writs and other process, to be issued by the said mayor, recorder, or aldermen, or either of them, and to the said marshal and constables or any of them directed and delivered, and also to do, execute and perform all duties, matters, acts and things which by the last mentioned act, and the acts supplementary thereto, the constables of the several townships are required to do, execute and perform; and the said marshal and constables shall be liable to the same actions, recoveries, pains, penalties and forfeitures for neglect of duty and misconduct in office, to which the constables of the several townships in this state are subject and liable.

Duties of mar-
shal & consta-
bles.

7. *Be it enacted*, That the eighth section of the act to which this is a supplement, be, and the same is hereby repealed.

AN ACT to set off a part of the borough of Elizabeth, in the county of Essex, and to incorporate the same into a separate township, to be called the township of Union.

PAM. 90.
BLOOM. 199.

Passed the 23d of November, 1808.

WHEREAS a number of the inhabitants of the said borough of Elizabeth, have, by their petition set forth, that they find themselves much injured by being as they are at present a part of the borough of Elizabeth, and as such obliged to furnish their

1808.

quotes of jurymen four times in a year, to attend the mayor's court, where but little business is done, and in which they are seldom interested; and also being compelled from time to time, by taxation, to pay money for the building and repairing their court-house, without being in the least exonerated thereby from their services or expenses as it respects the county; for remedy WHEREOF—

Bounds.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the borough of Elizabeth, lying within the following bounds, to wit: beginning at a fork in the road leading from the dwelling-house of Benjamin Mulford, past the house of Robert Clark to Crane's mills, and in the line of the township of Rahway; thence up the road leading past the said Benjamin Mulford, and the dwelling-house of William Crane, esquire, until it strikes a road running a northerly course from the dwelling-house of Oliver Crane; thence up the said road until it strikes the mouth of the road leading from James Crane's to Stephen Crane's tavern; thence in a direct line to a bridge commonly known by the name of Trotter's bridge; thence on a direct line to the mouth of the road leading from the main road which leads from Elizabeth-Town to Newark, and near the dwelling-house of John Pierson; thence up the said road past the house of Lewis Mulford, to the fork of the road leading to Lyons Farms meeting-house, and the road leading to Newark, past the house of captain Obadiah Meeker; and from thence in a direct course until it strikes the line which separates the township of Newark from the borough of Elizabeth, near Dividend hill; thence up the Newark line until it strikes the line of the township of Orange; thence along the Orange line until it strikes the line of the township of Springfield; thence along the line of the township of Springfield until it strikes the township of Rahway; thence along the line of the said township of Rahway to the place of beginning; shall be and hereby is set off from the borough of Elizabeth, and erected into a separate township, to be known and called by the name of "The township of Union."

2. Supplied by act, 22d May, 1820.

3, 4. Executed.

Repealing
clause
See ante 97.

5. And be it enacted, That the act, entitled "An act to establish and confirm the charter rights and privileges of the borough of Elizabeth," passed the twenty-eighth day of November, seventeen hundred and eighty-nine, so far as the said act includes and relates to that part of the said borough lying within the limits of the township of Union, be, and the same is hereby repealed.

1808.

AN ACT to regulate the fisheries in the river Delaware, and for other purposes.

PAM 104.
BLOOM. 204.

Passed the 26th of November, 1808.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That from and after the passing of this act, no seine or net shall be cast, drawn, or in anywise made use of, by any person or persons whomsoever, in the river Delaware, within the jurisdiction of this state, from Saturday, twelve o'clock at night, until twelve o'clock on Sunday night; and that no more than one seine or net shall be cast, drawn, or in anywise made use of in any one pool or fishing place, by any person or persons whomsoever, in the aforesaid river from the Station point or north-west corner of this state, to the southern point of Newbold's or Bid-
dle's Island in the county of Burlington, and from thence down opposite the circular boundary of the state of Delaware, not more than two nets within any one term of twenty-four hours, to begin at sunrising and to continue until sunrising the next day following; and if any person or persons whosoever, shall cast, draw or make use of any seine or net in the said river, or shall be aiding or assisting therein, within the term or terms aforesaid, contrary to the true intent and meaning of this act, every person or persons so offending, and being thereof legally convicted before any justice of the peace of the county where the offence is committed, shall forfeit and pay the sum of fifty dollars, for each and every such offence, together with costs of prosecution, to be paid to the collector of the county where the offence has been committed, for the use of said county.

What hours
may be fished
in.

Penalty.

2. *And be it enacted,* That if any person or persons shall cast, draw or make use of any shad seine or shad net, for the purpose of catching fish in the river Delaware, within the limits of this state, below the falls of Trenton, after the tenth day of June, or between the said falls and opposite the mouth of the river Lehigh, after the *fifth** day of June, or in any other part of the river Delaware between the mouth of the river Lehigh and the Station point or north-west corner of this state, after the *tenth** day of June, in each and every year, every person or persons so offending, and being thereof legally convicted before any justice of the peace in and for the county where he or they may be apprehended, shall forfeit and pay the sum of fifty dollars, for each and every such offence, to be applied to the use aforesaid, and likewise pay costs of prosecution.

How long
fishing may
continue.

* *Fifteenth*, by
act of Nov. 20,
1809.
* *Twentieth*, by
said act.

And in order to ascertain what shall be deemed and held to be a pool or fishing place, within the meaning of this act—

3. *Be it enacted,* That from the place or places where seines or nets are usually thrown in, to the place or places where they have been usually taken out, or from the place or places where they may hereafter be thrown into the water to the place or places where they may be taken out, shall be deemed and held to be a pool or fishing place, within the meaning of this act.

Pool or fishing
place.

1808.

Seine may be
forfeited.

4. *And be it enacted*, That if any person or persons shall be found making use of any seine or net, contrary to the true intent and meaning of this act, every such person or persons so offending, shall, in addition to the penalty aforesaid, forfeit the seine or net so made use of, which seine or net shall, by order of the court before whom such person or persons shall be convicted, be exposed to public sale, after giving five days notice thereof by advertisement, and the money arising therefrom shall be paid in the manner and for the use aforesaid, the costs of such prosecution and sale being first deducted.

Wears, racks,
&c. unlawful.

5. *And be it enacted*, That if any person or persons whosoever, shall erect, build, set up, repair or maintain, or shall be aiding, assisting or abetting in erecting, building, setting, repairing or maintaining any wear, rack, basket, fishing dam or pound, or shall make use of any swab or bush-net, or shall fix, fasten, set, or otherwise make use of any gilling-seine or drift-net, anchor any engine or make use of any device whatsoever, except fishing with sweeping seine, hooks and lines, darts, scoop-nets and eel-baskets, for taking fish in the river Delaware, within the limits aforesaid, every person or persons so offending and being legally convicted thereof, by the oath or affirmation of one or more credible witness, or by his or their own confession, before any court having competent jurisdiction where such offender may be apprehended, shall forfeit and pay the sum of one hundred dollars, together with costs of suit, to be recovered and applied as aforesaid.

Penalty.

Wing-dams
unlawful.

6. *And be it enacted*, That if any person or persons whosoever, shall erect, build, set up, repair or maintain, or shall be aiding or assisting in erecting, building, setting up, repairing or maintaining any wing-dam, or placing any other obstruction injurious to the navigation of said river as aforesaid, except such mill-dams as have been, or hereafter may be put up in pursuance of any special act of the legislature, and being thereof legally convicted before the court of quarter-sessions of the county where the offence has been committed, shall forfeit and pay the sum of one hundred dollars, to be paid to and applied for the use aforesaid. *Provided always*, That wherever the land of any person along the said river, is situated so low as to make it difficult to keep a fence, in such case they shall be allowed the privilege of making a wall or rack sufficient to answer the purpose of preventing cattle from going round, with making and providing a sufficient passage near the shore, at least eleven feet wide, sufficiently deep for boats to pass through, until the water is so low as to go conveniently round the said wall.

Penalty.

Proviso.

7. Repealed by act, 20th January, 1814.

Collector's
duty.

8. *And be it enacted*, That the collector of each respective county adjoining the river Delaware, within the limits aforesaid, shall every year, before they settle their accounts, inquire of the justices of the peace of the several townships adjoining the river Delaware, within their county, to know whether they have any money in their hands arising from such forfeitures as aforesaid;

which money, if any there should be, they are hereby authorized to receive, with giving the magistrate a receipt and their respective counties credit for the same. And if either of the collectors, from his or their own knowledge, or the information of any other person, shall have knowledge of any transgressions against this act, which either of the aforesaid constables have either neglected or refused to prosecute agreeably to the directions of this act, he or they are hereby strictly enjoined and required, under the penalty of twenty-five dollars, immediately to give information to one of the justices of the peace of the respective township, borough or district, which said justice is hereby enjoined and required forthwith to proceed against any such delinquent, agreeably to the directions of this act.

1808.

Penalty.

9. Repealed by act, 20th January, 1814.

Provided always, That any person or persons who shall be convicted under this act, before any justice of the peace, he or they shall have a right to appeal to the court of quarter-sessions, within ten days after such conviction.

10. *And be it enacted*, That if any person or persons whosoever, shall cast or lay out, or cause to be laid out, any seine or net into the river Delaware, within the jurisdiction of this state, beyond the right angle of the shore, and where his line strikes the river at low-water mark a going out, or suffer it to swing beyond the right angle of the shore of the river, and where his line strikes it at low-water mark a coming in, (except by unavoidable accident) every person or persons so offending, and being thereof legally convicted, shall forfeit and pay the sum of twenty-five dollars, for each and every such offence, with costs and damage, to be paid to the person against whose land such trespass shall be committed, if he shall sue for the same within six months after such trespass has been committed.

Sweep of the seines.

Penalty for extending it.

And whereas it is provided by the agreement of the commissioners appointed by the legislature of this state and of the state of Pennsylvania, to divide the islands and settle the line of jurisdiction in the river Delaware, that the legislature of each of the states should have and exercise the right of regulating and guarding the fisheries on the said river annexed to their respective shores, in such manner that the said fisheries may not be unnecessarily interrupted during the season of catching shad, by vessels riding at anchor on the fishing ground, or by persons fishing under a claim of a common right to the said river: THEREFORE—

11. *Be it enacted*, That if any ship, vessel or raft, shall, during the season of catching shad in the Delaware, come to anchor at the same, on any fishing ground where shad are usually taken, and shall not immediately be removed from the said fishing ground, if such removal can be done with safety, on application for that purpose by the owner or occupier of such fishery, to the captain, pilot, or person having the command of the said ship, vessel or raft; or if any ship, vessel or raft be wilfully run on shore on any such fishing ground, then such captain, pilot, or

No vessels or rafts to anchor on fishing grounds.

1808. person having the command as aforesaid, shall forfeit and pay
 Penalty. sixty dollars, to be recovered by action of debt, with costs, by
 the said owner or occupier.

And whereas the legislature of the commonwealth of Pennsylvania have enacted a law entitled "An act to regulate the fisheries in the river Delaware, and for other purposes," dated the eighth day of February, in the year of our Lord, one thousand eight hundred and four, a copy of which has been presented to the legislature of this state for mutual agreement: THEREFORE—

12. *Be it enacted*, That his excellency the governor of this state, is hereby directed to transmit an attested copy of this law to the legislature of the commonwealth of Pennsylvania, and so soon as they* shall comply with the amendments and additions herein contained, then this shall be and is hereby ratified and confirmed.

This act not in force till ratified by Pennsylvania.

* Passed 22d Feb. 1800.

Former acts repealed.

13. *And be it enacted*, That the act, entitled "An act to regulate certain fisheries in the river Delaware," passed the thirteenth day of June, seventeen hundred and ninety-nine, and all other acts heretofore passed relative thereto, be, and the same are hereby repealed.

See supplements, 20th January, 1814, and 9th February, 1819.

PAM. 133.
 BLOOM. 213.

AN ACT to erect and set off a new township from the township of Springfield in the county of Essex.

Passed the 1th of November, 1800.

Boundaries.*

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all the district of the township of Springfield, in the county of Essex, included within the following limits, viz. beginning in the line that divides the townships of Westfield and Springfield, at the head of Greenbrook; thence north twelve degrees and twenty minutes east to the south side of the road running from New-Providence to Springfield, and a little east of the dwelling-house of Amos Potter, esquire; thence north forty-one degrees and fifty-five minutes west to the race of the saw-mill of Benjamin Bonnel, deceased; thence into the bed of the river Passaic in the Morris county line; thence up the bed of said river and along the Morris county line until it strikes the line of Somerset county; thence along said line of Somerset county until it strikes the line that divides the townships of Westfield and Springfield; thence along said line to the place of beginning, be, and the same is hereby set off from the above township of Springfield, and erected into a separate township, to be known by the name of "The township of New-Providence."

Name.

2, 3, 4. Supplied and executed,

1809.

AN ACT supplementary to the act, entitled "An act to regulate the fisheries in the river Delaware, and for other purposes," passed November the twenty-sixth, one thousand eight hundred and eight.

PAM 158.
BLOOM. 212.
See ante 540.

Passed the 20th of November, 1809.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That it shall be lawful to make use of shad seines or shad nets for the purpose of catching fish in the river Delaware, within the limits of this state, between the foot of the falls of Trenton and opposite the mouth of the river Lehigh, until the fifteenth day of June, and between the mouth of the river Lehigh and the Station point or north-west corner of this state, until the twentieth day of June, in each and every year, subject in all cases to the same regulations, fines and penalties pointed out in the act to which this is a supplement.

2. *And be it enacted,* That his excellency, the governor of this state, is hereby directed to transmit an attested copy of this act to the legislature of the commonwealth of Pennsylvania, and so soon as they shall comply with the provisions herein contained, then this shall be, and is hereby ratified and confirmed.

3. *And be it enacted,* That all such part or parts of the second section of the act to which this is a supplement, as comes within the purview of this act, be, and the same is hereby repealed.

AN ACT to repeal part of two certain acts respecting the great road leading from Perth-Amboy to Salem.

PAM. 175.
BLOOM. 218.

Passed the 24th of November, 1809.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That so much of the eighteenth section of the act, entitled "An act making provision for working and repairing the highways," passed the sixteenth day of March, seventeen hundred and ninety-eight; and so much of the sixteenth section of the act, entitled "An act relative to the laying out, vacating and altering of roads," passed the first day of June, seventeen hundred and ninety-nine, as confirms and declares unalterable the great road from Perth-Amboy to Salem, be, and the same is hereby repealed. And the said road shall hereafter be subject to be vacated and altered by the surveyors of the highways in the manner prescribed by the laws now, or which hereafter may be in force for laying out and repairing the highways in this state. *Provided always,* That nothing in this act shall be construed to authorize contracting any part of the said road which passes through any town or village, to a less width than is now opened and established.

1809-10.

PAN. 123.
BLOOM. 220.
See ante 437.

A SUPPLEMENT to an act, entitled "An act to issue commissions for the examination of witnesses, and to take their depositions in certain cases," passed the eighteenth day of February, seventeen hundred and ninety-nine.

Passed the 29th of November, 1809.

Sessions may
issue commis-
sions in suits
of a civil na-
ture.

Former act
extended.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if a material witness in any action or suit of a civil nature, in the court of general quarter-sessions of the peace of this state, reside out of this state, or if in this state, be ancient or very infirm, or be sick, or bound on a voyage, or about to go out of this state, it shall and may be lawful for the said court in which such action or suit is depending, on affidavit, or proof thereof to the satisfaction of the said court, and upon motion made by or in behalf of either party in open court, and on such terms as the said court shall direct, to award and issue under the seal of the said court, a commission to such person or persons as the said court may think fit, authorizing such person or persons to proceed in taking such depositions, in the same manner as is directed in the act to which this is a supplement, for commissioners appointed by the superior courts; and every thing therein contained respecting taking depositions, to extend in as full and ample a manner in all cases of a civil nature, to the court of general quarter-sessions of the peace, as is therein directed to the superior courts.

PAN. 241.
BLOOM. 221.

AN ACT authorizing the printed laws of this state to be read in evidence in any court in this state.

Passed the 31st of October, 1810.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all the laws heretofore printed, and also that may hereafter be printed by the authority of this state, shall, before any court in this state, be received in evidence, any thing in any law to the contrary notwithstanding.

PAN. 244.
BLOOM. 221.

AN ACT to tax bank-stock.

Passed the 2d of November, 1810.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the president and directors of "The Newark Banking and Insurance Company;" the President and Directors of the Branch of the Newark Banking and Insurance Company, established at the city of Jersey, and commonly called "The Jersey Bank;" the President and Directors of "The Trenton Banking

Company;" and "The President and Directors of the New-Brunswick Bank;" be, and they are hereby respectively required to pay, or cause to be paid, into the treasury of this state, on or before the first day of January next, and on or before the first day of January in every year thereafter, the one half of one per cent upon the whole amount of capital stock actually subscribed and paid in, and which shall hereafter be subscribed and paid in to such bank or company.

1810-11.

Amount of tax:

2. *And be it enacted*, That in case of the neglect or refusal of the president and directors of either of the said companies to pay, or cause to be paid into the treasury of the state, the amount of tax levied upon such company by this act, for the space of thirty days after the annual period in the first section of this act prescribed, it shall be the duty of the treasurer of this state to make return to one of the justices of the supreme court, of the amount of the tax levied as aforesaid and unpaid, whose duty it shall be to issue a warrant under his hand and seal, in the name of the treasurer of the state, directed to the sheriff of the county where the goods, chattels, lands, tenements and hereditaments and real estate of such delinquent company are situated, requiring him to levy the tax so in arrear, with interests and costs, by distress and sale of the personal and real estate of such delinquent company, who shall proceed to make, levy and sale thereof as in other cases, where executions issue against personal and real estate, and shall pay the amount levied to the treasurer of the state, and in default thereof, shall be proceeded against in the manner prescribed by the act entitled "An act concerning sheriffs."

Treasurer to prosecute.

See ante 236.

AN ACT relative to the accounts of the treasury and the state-prison.

PAM. 250.
BLOOM. 222.

Passed the 3d of November, 1810.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall be the duty of the treasurer of the state, and of the keeper of the state-prison, for the time being, and they are hereby required to have their respective accounts of the treasury and of the state-prison, ready for examination and settlement on the fourth Tuesday of October in every year, and that to this end they be, and are hereby authorized to close their accounts for the year, on the fifteenth day of October in every year hereafter.

AN ACT for the protection of steam-boats owned and navigated by citizens of this state.

PAM. 298.
BLOOM. 223.

Passed the 25th of January, 1811.

WHEREAS in and by an act of the legislature of the state of New-York, passed April the eleventh, in the year of our

1811.

Lord, one thousand eight hundred and eight, it is provided that no person or persons, without the license of the persons entitled to an exclusive right to navigate the waters of that state (under a law of the same) with boats moved by steam or fire, or those holding a major part of the interest in such privilege, shall set in motion or navigate upon the waters of the said state, or within the jurisdiction thereof, any boat or vessel moved by steam or fire; and that the said person or persons so navigating with boats or vessels moved by steam or fire, in contravention of the said exclusive right, shall forfeit such boat or boats and vessels, together with the engine, tackle and apparel thereof, to the persons claiming such exclusive right: *And whereas* the state of New-York, do unjustly claim a jurisdiction exclusively of the state of New-Jersey, over all the waters lying and being between the shores of the two states: *And whereas* the citizens of New-Jersey, have a full and equal right to navigate, and have and use vessels or boats upon all the waters lying between the states of New-Jersey and New-York, in all cases whatever, not prohibited by the constitution or any law of the United States: THEREFORE—

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That in case any person or persons shall, under color of any law of the state of New-York, seize and take into possession any boat whatever, moved by steam or fire, belonging, or to belong in part, or in whole, to a citizen or citizens of New-Jersey, lying on waters between the ancient shores of the said states of New-Jersey and New-York, under pretence of any violation of the law of New-York, before mentioned; that then and in such case, it shall and may be lawful for any owner or owners in part or in whole of such boat, as may have been seized as aforesaid, to seize and take into possession any boat or boats moved by steam or fire, belonging to or possessed in part or in whole, by any citizen of the state of New-York, lying and being within any river, creek or bay, the whole waters whereof are within the territorial jurisdiction of New-Jersey, exclusively of New-York; which boat or boats so seized as aforesaid, shall be forfeited, together with the engine, tackle and apparel thereof, to the owner or owners, as the case may be, of such boat or boats which may have been seized as aforesaid under the law aforesaid of the state of New-York: *Provided always*, That nothing in this act contained shall be so construed as to have any operation against any patent-right, or privilege, obtained under the constitution, or any law of the United States, or to interfere with the jurisdiction of the courts of the United States, or so as to authorize any detention of any boat or boats with their appurtenances aforesaid, seized in virtue of this act, after there shall have been a full delivery of such boat or boats, with their appurtenances aforesaid, which may have been seized or forfeited under color of the act aforesaid of the state of New-York, in as ample and complete condition as they had been at the time when such boat or boats

may have been seized or forfeited as aforesaid, to such person or persons as may then have been the owner or owners thereof.

1811.

See act, February 12, 1813.

AN ACT to regulate gun-powder manufactories and magazines within this state.

PAM. 300.
BLOOM. 225.

Passed the 7th of February, 1811.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That from and after the first day of May next, no person or persons whatsoever, shall be permitted within this state to erect or establish, or cause to be erected or established, any manufactory which shall be actually employed in manufacturing gun-powder, either by himself or any other person, either on his own land or the land of another, within the distance of a quarter of a mile from any town or village, or house of public worship; or within the distance of a quarter of a mile from any dwelling-house, barn or out-house, without the consent, under hand and seal, of all and every the owner or owners of such dwelling-house, barn or out-house, as aforesaid; and any person so offending shall be guilty of a misdemeanor, and on conviction thereof shall be fined any sum not exceeding two thousand dollars: *Provided*, That nothing in this section shall be so construed as to prevent the completing, rebuilding or repairing any powder-mill now erected or erecting in this state on which the same shall be now erected or erecting.

2. *And be it enacted*, That no person or persons hereafter shall be permitted to erect or cause to be erected any powder magazine within this state, either upon his own land or the land of any other person, and actually deposit gun-powder therein, within the distance of half a mile from any town or village, house of public worship, dwelling-house or out-house. And any person so offending shall be guilty of a misdemeanor, and on conviction thereof shall be fined not exceeding the sum of two thousand dollars.

AN ACT to ratify an amendment to the constitution of the United States.

PAM. 305.
BLOOM. 225.

Passed the 13th of February, 1811.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the amendment to the constitution of the United States, proposed by a resolution of the senate and house of representatives of the United States of America, in congress assembled, to the legislatures of the several states, which proposed amendment is in the following words, viz.

1811.

"If any citizen of the United States shall accept, claim, receive or retain any title of nobility or honor, or shall, without the consent of congress, accept and retain any present, pension, office or emolument of any kind whatever, from any emperor, king, prince or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them,"

Be, and the same is hereby, upon the part of this legislature, and in the name of this state, ratified and made a part of the constitution of the United States.

PAM. 302.
BLOOM. 227.

AN ACT to prevent horse-racing.

Passed the 15th of February, 1811.

Racing indict-
able.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That all racing, running, pacing or trotting of horses, mares or geldings, for money, goods or chattels, or other valuable thing, shall be and hereby are declared to be common and public nuisances and offences against the state, and the authors, parties, contrivers and abettors thereof, shall be prosecuted and proceeded against by indictment.

Horses, &c.
forfeited.

2. *And be it enacted,* That each horse, mare or gelding, used or employed in any race on which any bet or wager is laid, or any purse or stakes made, shall thereby be liable to be forfeited to this state, and may, at any time within six months thereafter, be seized by any constable or overseer of the poor of the township in which such race shall have been run, or the sheriff or any of his deputies of the county in which such township is situate; and in case of seizure as aforesaid, the officer so seizing shall make information against such horse, mare or gelding, to the next court of common pleas in such county, and such court shall proceed to hear and decide on such seizure, and in case such horse, mare or gelding shall be judged forfeited, such court shall order a sale thereof at public vendue, and direct the avails (first deducting the charges of condemnation) to be paid to the collector of the county for the use of the state.

Bets, &c. void.

3. *And be it enacted,* That all wagers and bets which shall be laid, betted or made, on the racing, running, pacing or trotting of horses, mares or geldings, and all promises, agreements, notes, bills, bonds, contracts, judgments, mortgages or other securities or conveyances which shall be made, given, granted, drawn, entered into or executed by any person or persons where the whole or any part of the consideration thereof shall be for any money, goods, chattels or other thing, won, laid or betted on the racing, running, pacing or trotting of horses, mares or geldings, shall be utterly void and of none effect.

Losses may be
recovered.

4. *And be it enacted,* That it shall and may be lawful for any person who shall lose any money, goods, chattels or other valu-

able thing, on the racing, running, pacing or trotting of horses, mares or geldings, and shall pay or deliver the same, or any part thereof, to the winner, or other person, for his use or in his behalf, to recover the same or the value from such winner, with costs, by action of debt or on the case, in any court of record having cognizance thereof: *Provided always*, That such suit shall be instituted within six calendar months after such losing and payment or delivery as aforesaid.

1811.

5. *And be it enacted*, That if any person shall contribute or collect, or shall ask or desire any other to contribute or collect any money, goods or chattels to make up a purse, plate or other thing, to be run, paced or trotted for as aforesaid, at any place in this state, such person so offending shall forfeit and pay the sum of thirty dollars, for each offence.

Penalty for making up a purse.

6. *And be it enacted*, That if any person shall run any horses, mares or geldings, at any place where ten persons or more shall have convened together, although no money, goods or chattels, or other valuable thing shall be betted, wagered or laid thereon, or shall be aiding, assisting or any way concerned therein, every person so offending shall forfeit and pay the sum of fifteen dollars, for each offence.

Penalty for running where no bet is made.

7. *And be it enacted*, That if any person or persons shall let or rent his, her or their land for the purpose of running, pacing or trotting any horses, mares or geldings, or shall knowingly and wilfully suffer the same to be used for the purposes aforesaid, every person so offending shall forfeit and pay the sum of fifty dollars.

Penalty for letting land for racing.

8. *And be it enacted*, That if any person or persons within this state, shall print or cause to be printed, set up or cause to be set up, any advertisement mentioning the time and place for the running, pacing or trotting of any horses, mares or geldings, or shall knowingly suffer any advertisement as aforesaid to be set up in or upon his, her or their dwelling-house or out-house, or shall knowingly suffer the same to remain up as aforesaid, every person so offending shall forfeit and pay the sum of fifteen dollars.

Penalty for advertising races, &c.

9. *And be it enacted*, That all and every of the penalties in the fifth, sixth, seventh and eighth sections of this act prescribed, shall be sued for and recovered by the overseer or overseers of the poor of the township where the offence shall have been committed, in the name of such township, within six calendar months thereafter, by action of debt, with costs of suit, in any court having cognizance thereof, and shall be applied to the use of the poor of said township, or in counties where trustees of the poor are or may be incorporated, shall be paid to such trustees for the use of the poor of the county; and further, it is hereby declared to be the special duty of every such overseer of the poor, on his own knowledge of the fact, or on information thereof by any person or persons, without delay, to institute and prosecute to effect all and every such suit and suits, under the penalty of ten dollars, for every default, to be recovered by any person or persons who will sue for the same, by action of debt, with costs of suit, and

How penalties shall be recovered.

1811.

that in case of a failure in any such suit or suits so to be brought by the said overseer or overseers of the poor, the costs awarded against him or them shall be paid or reimbursed out of any moneys appropriated for the use of the poor.

Fees of overseer.

10. *And be it enacted*, That the said overseer or overseers shall be entitled to retain in his or their hands twenty-five cents on every dollar that he or they may receive by virtue of this act, as a compensation for his or their trouble.

Penalty for ill-treating any officer.

11. *And be it enacted*, That if any person or persons shall assault, beat or otherwise ill treat any officer designated in this act, in the execution of his official duty, every person so offending shall be guilty of a high misdemeanor, and upon conviction shall be punishable by fine or imprisonment at hard labor, or both, the fine not to exceed the sum of five hundred dollars, nor the imprisonment the term of two years, at the discretion of the court.

Former act repealed.

12. *And be it enacted*, That the act, entitled "An act concerning horse-racing," passed the third day of March, in the year of our Lord, seventeen hundred and ninety-seven, and all other acts or parts of acts coming within the purview of this act, shall be, and the same are hereby repealed.

PAM. 308.
BLOOM. 232.
See ante 378.

A SUPPLEMENT to the act, entitled "An act for suppressing vice and immorality," passed March sixteenth, seventeen hundred and ninety-eight.

Passed the 21st of February, 1811.

Preamble.

WHEREAS it appears from experience, that the law for suppressing vice and immorality, to which this is a supplement, has not had the desired effect, particularly with respect to persons who interrupt or disturb any assembly of people met for religious worship: THEREFORE—

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if any person or persons whatsoever, either on the first day of the week, called Sunday, or on any other day or time, shall wilfully and of purpose disquiet, interrupt or disturb any assembly of people met for religious worship, either by making a noise or by rude and indecent behaviour or profane discourse, whether within their place of worship or out of it, so near the same as to disturb the order and solemnity of the meeting, then every person so offending and being thereof legally convicted before any justice of the peace of the county, or any mayor, recorder or alderman of any city or town-corporate where the offence shall be committed, upon the view or personal knowledge of the said justice, or confession of the offender, or proof of any witness or witnesses upon oath or affirmation, shall, for every such offence, forfeit and pay, to the use of the poor of the township where such offence shall be committed, the sum of ten dollars, to be levied, recovered and applied in the manner and form prescribed in the

Penalty for disturbing religious worship.

1812.

first section of the act to which this is a supplement; and in case no distress can be had whereby to levy the said forfeitures, as in the said section is prescribed, then every such offender shall, by a warrant under the hand and seal of the said justice, or the said mayor, recorder or alderman, be committed to the common jail of said county, city or town corporate, where the offence shall be committed, to be certainly expressed in said warrant, for a term not exceeding ten days.

And whereas it may so happen that persons from a distance, or from another county or state, may disturb or interrupt a religious meeting, and no magistrate being at hand to issue, or no constable to serve, a warrant for his or their apprehension, the offender or offenders may escape punishment—

2. *Be it enacted*, That any member of any church or religious society which may be disturbed or interrupted in their meetings, or any other person or persons, being citizens of this state and freeholders within the same, shall be and are hereby authorized to apprehend any and every such person so disturbing and interrupting them, immediately, and take him or them before a magistrate as soon as conveniently may be, in order that he or they so offending may be dealt with according to law, and every such member or citizen as aforesaid, who may hereafter perform this service, shall be entitled to the same assistance and protection, and shall be under the same restrictions and liabilities, as a constable would be on the same occasion.

Who may apprehend offenders.

3. *And be it enacted*, That if any person or persons shall disturb or interrupt any religious meeting as aforesaid on the first day of the week, called Sunday, it shall be lawful for any constable or member of the meeting, and a citizen or freeholder as aforesaid, to apprehend such person or persons immediately, and detain him or them until the next day, then to be dealt with according to law, unless said offender or offenders shall give sufficient security before some magistrate, to appear at any time and place that he may direct, to answer the charge preferred against him or them, in which case it shall be lawful for said magistrate to discharge such offender or offenders.

Offenders on Sunday may be detained:

4. *And be it enacted*, That the thirteenth section of the act, entitled "An act for suppressing vice and immorality," and so much of the same or any other act as comes within the purview of this act, be, and the same is hereby repealed.

Thirteenth section of former act repealed.

See act, 2d February, 1820.

AN ACT to set off and erect a new township from the township of Newark, in the county of Essex. P. M. 62.

Passed the 24th of January, 1812.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all the district of the township of Newark, in the county of

Bounds of new township.

1812.

Essex, included within the following limits, viz.: beginning at the Green island in Passaic river, near that part of the road leading from Newark to Belleville, called the gully; and from thence running westerly to the north-east corner of the township of Orange at the great boiling spring; thence along the line of the township of Orange to Turkey-Eagle rock on the top of the first mountain; thence northerly along the said Orange line on the top of said mountain to the corner of the township of Caldwell; thence along the Caldwell line on the top of said mountain to the line of the township of Acquacknonk; thence south-easterly along the said Acquacknonk line to Passaic river; thence southerly along said Passaic river to the beginning, be, and the same is hereby set off from the said township of Newark, and erected into a separate township, to be known by the name of "The township of Bloomfield."

Powers, &c.

2. *And be it enacted*, That the inhabitants of the township of Bloomfield shall be, and they are hereby vested with and entitled to all the powers, privileges and authorities, and shall be and are hereby made subject to the like regulations and government, which the inhabitants of other townships in this state are subject and entitled to; and that the inhabitants of the township of Bloomfield shall be and they are hereby incorporated, styled and known by the name of "The inhabitants of the township of Bloomfield, in the county of Essex," and entitled to all the privileges, authorities and advantages that the other townships in the said county are entitled to by virtue of an act, entitled "An act incorporating the inhabitants of townships, designating their powers and regulating their meetings," passed the twenty-first day of February, in the year of our Lord, one thousand seven hundred and ninety-eight: *Provided*, That this act shall not be in force until the fourth Monday of March next.

3, 4. Executed and supplied.

PAM. 64.

AN ACT to alter the line of division between the townships of Hopewell and Stow-Creek, in the county of Cumberland.

Passed the 24th of January, 1812.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the public road leading from Greenwich to the line of the county of Salem, near the house of Adam Shute, shall hereafter be the line of division between the said townships of Hopewell and Stow-Creek.

1812.

AN ACT to prevent the introduction of malignant and other infectious diseases, into the city of Perth-Amboy.

PAM. 19.

Passed the 3d of February, 1812.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all vessels arriving at the port of Perth-Amboy, between the thirty-first day of May, and the first day of October, from any port, island or other place in America, lying south of Georgia, or from any West-India, Bahama or Bermuda island, or from any port or place, where yellow or pestilential fever prevails, or on board of which vessel any person shall have died while at a foreign port, or on the homeward passage, shall come to anchor at some place being to the southward of a straight line drawn from the south ferry wharf in Perth-Amboy aforesaid, to the house of Caleb Ward, on Staten-Island, and shall be subject to the examination of the health officer hereafter mentioned, and to such regulations as may be deemed expedient by him, and that any master or commander of a vessel offending in the premises, shall be considered as guilty of a misdemeanor, and on conviction thereof, shall be fined by any court having cognizance of the same, in a sum not exceeding one hundred dollars, or be imprisoned for a term not exceeding two months.

Vessels to
come to an
anchor.

Penalty.

2. And be it enacted, That whenever a vessel shall arrive at the anchoring place above mentioned, from a place where yellow or other pestilential fever prevails, or if during her voyage, any person has died or been sick on board with such fever, or if the health officer shall in any other case judge it necessary, the master, owner or consignee, shall forthwith cause such vessel to be unloaded, cleansed and purified, and that until then, no permit shall be granted for her to proceed nearer to the city of Perth-Amboy, and that every vessel under the above circumstances, arriving between the thirty-first day of May, and first day of October, may be detained at quarantine for any time not exceeding twenty days after her cargo shall be discharged, and the said vessel thoroughly cleansed and purified to the satisfaction of the health committee hereafter named, and that every master, owner or consignee, neglecting or refusing to comply with the provisions herein contained, shall be considered as guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not exceeding one hundred dollars, or imprisoned for a time not exceeding two months.

Vessels to be
unladen and
cleansed.

Penalty.

3. And be it enacted, That the mayor, recorder, aldermen and commonalty, of the city of Perth-Amboy, shall have the power to appoint some fit person as health officer or visiting physician, whose duty it shall be to visit all vessels arriving from the places or under the circumstances herein mentioned, and to report the same and the situation thereof to the health committee, and to direct, at the expense of the master, owner or consignee of all such vessels arriving as aforesaid, the manner in which the same shall be cleansed, ventilated and purified, and when done,

Health officer,
Duties.

1812.	to certify the same to the health committee, and the said health officer shall be entitled to ask, demand and receive of and from the master, owner or consignee of all vessels arriving as aforesaid, the sum of five dollars, on visiting the same on arrival, and the further sum of two dollars for every visit thereafter made at the request of such master, owner or consignee, or of the health committee, to inspect such vessel after she shall have been cleansed, ventilated and purified as aforesaid.
Compensation	
Health committee.	4. <i>And be it enacted</i> , That the mayor, recorder and aldermen of the city of Perth-Amboy, for the time being, shall constitute a health committee, and as such shall be and are hereby authorized to do and perform all such duties as may be necessary to carry this act into effect, and upon the report of the health officer, to grant a permit to any vessel arriving or circumstanced as aforesaid, to proceed to the city of Perth-Amboy, after she shall have been cleansed, ventilated and purified, and the said health committee shall have power to forbid the intercourse with any vessel arriving as aforesaid, having on board persons sick of a pestilential or yellow fever, and to prevent any of the crew or passengers of such vessel (except the captain or master thereof, for the purpose of entry) from landing at the city of Perth-Amboy aforesaid; and every person offending in the premises, shall be adjudged guilty of a misdemeanor, and shall on conviction in any court of competent jurisdiction, be fined in any sum not exceeding one hundred dollars, or be imprisoned for a term not exceeding two months.
Duties.	
Powers.	
Penalty.	

PAM. 22.

AN ACT respecting joint-tenants and tenants in common.

Passed the 4th of February, 1812.

WHEREAS estates granted or devised to a plurality of persons, without any restrictive, exclusive, or explanatory words, have heretofore been held in this state to be estates in joint-tenancy;
THEREFORE—

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That no estate after the passing of this act, shall in this state be considered and adjudged to be an estate in joint-tenancy, except it be expressly set forth in the grant or devise creating such estate, that it is the intention of the parties to create an estate in joint-tenancy and not an estate of tenancy in common, any law, usages or decision heretofore made to the contrary notwithstanding.

AN ACT respecting deputies to the attorney-general.

1812.

Passed the 6th of February, 1812.

PAM. 23.

WHEREAS doubts have arisen whether the attorney-general of this state is authorized to appoint deputies to prosecute the pleas of the state in such counties as he may not be able to attend in person.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the attorney-general of this state for the time being, be and he is hereby authorized to appoint from time to time, as occasion may require, deputies for those counties of this state which he may be unable in person to attend, which deputies shall, during their continuance in office, be vested with the same powers in the counties for which they shall respectively be appointed, entitled to the same fees, and subject to the same penalties as the attorney-general is or may by law be vested with and entitled and subject to, any law or usage to the contrary notwithstanding: *Provided*, That nothing herein contained shall prevent the attorney-general from acting as such in any of the said counties, at any court which he may attend in person, nor affect the right of any court to appoint a substitute for the term, in case neither the attorney-general nor his deputy shall attend such court.

Attorney-general to appoint deputies.

Proviso.

2. And be it enacted, That the said deputies, before entering on the duties of their office, shall respectively take the following oath or affirmation, viz.: "I do solemnly promise and swear (or affirm) that I will faithfully, justly and impartially execute the duties of deputy attorney-general in the county of to the best of my abilities and understanding. So help me God." Which oath or affirmation shall be administered by the clerks of the counties respectively for which such deputies shall have been appointed.

Oath of office.

AN ACT concerning judgments of justices, removed by certiorari into the supreme court.

PAM. 26.

Passed the 6th of February, 1812.

WHEREAS great evil hath arisen by reason of the reversal of judgments of justices of the peace removed by certiorari before the supreme court, on account of errors and mistakes in awarding of costs; for remedy THEREOF—

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, no judgment of any justice of the peace, removed by certiorari before the supreme court of judicature, shall be reversed in the whole on account of any error or mistake made by the justice by whom such judgment may

1813. have been rendered, in the entering, calculating or awarding of the costs of suit, but such judgment shall only be reversed so far as respects the said error or mistake; which error or mistake the court are hereby empowered to correct.

2. *And be it enacted*, That in case any judgment be so affirmed in part and reversed in part, neither party shall pay cost in certiorari to the other.

3. *And be it enacted*, That it shall not be lawful for the said supreme court to reverse any judgment of any court for the trial of small causes, for any irregularity in the proceedings of such court, unless such irregularity tends to defeat or impair the substantial right or interest of the party in certiorari praying such reversal.

PAM. 81.

AN ACT to authorize the mayor, recorder, aldermen and commonalty of the city of Burlington, to purchase or build a common gaol and work-house.

Passed the 2d of February, 1813.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for the mayor, recorder, aldermen and commonalty of the city of Burlington, at the expense of the said city, to purchase or procure a lot of ground, within the limits of the corporation, and to erect or provide a suitable building for the purposes of a common gaol and work-house for the said city.

Corporation officers may commit offenders.

2. *And be it enacted*, That it shall and may be lawful for the mayor, recorder and aldermen of the said city, or either of them, to commit to the said gaol any person or persons, offender or offenders, whom by law they or either of them are authorized to commit to the gaol or imprison in the work-house of the county; and the keeper of the said gaol, who may hereafter be appointed by the common council of the said city, is hereby required to receive such person or persons so committed, and him, her or them to keep in close and safe custody, until discharged by due course of law.

Work-house according to law.

See ante 444.

See ante 473.

3. *And be it enacted*, That the said work-house or gaol shall be deemed, esteemed or taken, to be a work-house within the intention and meaning of the fifth, sixth and seventh sections of the act, entitled "An act for the establishment of work-houses in the several counties of this state," passed the twentieth of February, one thousand seven hundred and ninety-nine; and also of the act to describe, apprehend and punish disorderly persons, passed the tenth of June, one thousand seven hundred and ninety-nine: *Provided*, That no magistrates but the mayor, recorder and aldermen of the said city, or either of them, shall have authority to commit any person to the said work-house.

Duties of the keeper.

4. *And be it enacted*, That of the keeper of the said work-house or gaol shall be required the same duties, in respect to the

safe keeping of the persons committed to his custody by virtue of this act, as are required of the sheriff or keeper of the common gaol of the several counties of this state; and the said keeper of the said work-house or gaol shall be subject to the same pains, penalties and forfeitures, for failure of duty, misconduct in office, and voluntary or negligent escapes, to which the sheriff or keeper of the common gaol of the several counties of this state is by law subject and liable.

1813.

5. *And be it enacted*, That the keeper of the said gaol shall be entitled to receive the same fees for his services as are allowed by law to the keeper of the gaol of the county of Burlington for like services.

Keeper's fees.

AN ACT to set off and erect the township of Livingston, in the county of Essex.

PAM. 7.

Passed the 5th of February, 1813.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all those parts of the townships of Springfield and Caldwell, in the county of Essex, included within the following limits, viz.: beginning at the mouth of a ditch, on lands of Bernard Dickerson, about thirty rods south of said Dickerson's dwelling-house; thence on a direct line to the centre of a bridge, near the house of Samuel Baldwin; thence on a direct line to Keen's mill, between the mountains, being the south-east corner of Orange township; thence along the line of the township of Orange, to the north-west corner of the same, near Joel Condit's quarry; thence running in a straight direction to the mouth of the road near captain Burnet's, leading by major Abijah Williams'; thence along the centre of said road until it intersects the cross road leading from Swinefield to Cyrus Crane's saw-mill; thence in a direct line to the centre of an island in Passaic river, opposite lands of Aaron Kitchell, esquire; thence up the river Passaic, on the Morris county line, to the place of beginning, be, and the same is hereby set off from the said townships of Springfield and Caldwell, and erected into a separate township, to be known by the name of "The township of Livingston."

Boundaries and limits of the township.

Name.

2, 3, 4. Supplied and executed.

AN ACT to incorporate into a township a part of the townships of Great-Egg-Harbor and Weymouth, in the county of Gloucester, by the name of Hamilton.

PAM. 10.

Passed the 5th of February, 1813.

WHEREAS a number of the inhabitants of the townships of Great-Egg-Harbor and Weymouth, in the county of Gloucester, have, by their petitions, set forth to the legislature the dis-

Preamble.

1813.

advantages they labor under by reason of the great extent of the said townships; for remedy WHEREOF—

Boundaries
and limits of
the town-
ship.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the townships of Great-Egg-Harbor and Weymouth, in the county of Gloucester, lying within the following bounds: beginning in the line of the townships of Great-Egg-Harbor and Weymouth, at the mouth of Miry Run, where it empties into Great-Egg-Harbor river; thence running up the middle of said Miry Run, the several courses thereof, to the head of said run; then a north-east course until it intersects the line of Galloway township; then along line of Galloway and Great-Egg-Harbor townships, north-westerly, until it intersects the line of the township of Gloucester; then along the line of the townships of Great-Egg-Harbor and Gloucester, south-westerly, and still on the same course in the line between the township of Weymouth and the townships of Deptford, Greenwich and Woolwich, until it intersects the line of the county of Cumberland; then in the line of the counties of Cumberland and Gloucester, south-easterly, to a station in said county line, where a course corresponding with the southwardly line of the West-Jersey Society's large re-survey will strike the south-west corner of said re-survey; then along the said southwardly line of the West-Jersey Society's re-survey to Great-Egg-Harbor river; then down the said river, the several courses thereof, to the mouth of Miry Run aforesaid, being the place of beginning, shall be and is hereby set off and made a separate township, to be called by the name of "The township of Hamilton."

Name.

2, 3, 4. Supplied and executed.

PAM. 38.

See ante 310.

▲ SUPPLEMENT to the act, entitled "An act relative to juries and verdicts," passed the tenth day of November, seventeen hundred and ninety-seven.

Passed the 10th of February, 1813.

Struck juries.

List and venire to be delivered to officer fifteen days before time of trial.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the list of all jurors struck by virtue of the act to which this is a supplement, shall be delivered to the sheriff or other officer who ought to summon such jury, together with the venire facias, at least fifteen days previous to the time appointed for the trial of such cause, which list and venire facias shall be delivered by the person applying for such struck jury, his agent or attorney; and in case of neglect or refusal to deliver the list and venire as aforesaid, the cause shall be tried by a common jury of the county, (unless the court shall for some good cause determine otherwise) any thing in the above recited act to the contrary notwithstanding.

AN ACT for incorporating the town of Princeton.

1813.

Passed the 11th of February, 1813.

PAM. 7.

WHEREAS sundry inhabitants of the town of Princeton have, by their petition to the legislature, prayed that they may, by law, be incorporated and formed into a body politic, with such powers, privileges and immunities, as will most conduce to the good order and regulation of the citizens thereof, and further the interests of those institutions of learning and piety established within the same, and as the legislature think it reasonable that the prayer of the said petition be granted: THEREFORE—

Preamble.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That such parts of the township of West-Windsor, in the county of Middlesex, and of the township of Montgomery, in the county of Somerset, as are contained within the following limits and boundaries, that is to say: beginning easterly on the turnpike road, at the western line of colonel Beatty's farm, and coursing the same four hundred and fifty yards, to a run of water at the bottom of Joseph Schenck's orchard; thence westerly, in a straight line, to the south-easterly corner of Dr. Vancleve's lot, thence one thousand three hundred and thirty-five yards north-erly, along a division fence passing west of Richard Stockton's mansion-house, to a hedge; thence easterly, in a straight line, passing north of the town, to a ditch and fence in front of Elijah Blackwell's dwelling-house; thence, in a straight line, five hundred and eighty-five yards, to the place of beginning, shall and the same are hereby enacted into a borough and town corporate, which shall henceforth be called, distinguished and known by the name of "The Borough of Princeton."

Boundaries and limits.

Name of the borough.

2. And be it enacted, That for the preservation of peace and good order, the more effectually to secure the important object of society, and for the better ruling and governing the said borough of Princeton and the inhabitants thereof, there shall henceforth be therein a mayor, who shall be keeper of the borough seal; a recorder, who, besides his said office, in absence of the mayor shall have and execute the several offices annexed to the mayoralty and every of them; three aldermen, who shall be resident freeholders; all which officers shall be justices of the peace, ex officio, within the said borough, and shall be appointed by the council and general assembly of this state, in joint-meeting, and commissioned by the governor, in the same manner as the judges and justices of the peace throughout the state are appointed and commissioned, shall continue in office the same length of time, and be amenable in like manner to the council and general assembly; and there shall likewise be therein six assistants, one assessor, one collector, and a clerk, who shall be chosen by the inhabitants of the said borough, qualified to vote at town-meetings, at their annual town-meeting, to be holden on the third Monday in April; which mayor, recorder, aldermen and assistants, so appointed and elected as aforesaid, shall be one body

Officers.

Officers, by whom appointed.

Assistants, how chosen.

1813.	politic in deed, fact and name, with perpetual succession, to be known and distinguished by the name of "The Mayor, Recorder, Aldermen and Assistants of the Borough of Princeton," and they and their successors, at all times hereafter, by the name aforesaid, shall be able and capable in law, to have, purchase, take and receive, possess and enjoy, lands, tenements, hereditaments, liberties, franchises and jurisdictions, goods, chattels and effects, to them and their successors for ever, or for any other or less estate; and the same lands, tenements and hereditaments, goods, chattels and effects, to grant, bargain and sell, alien, convey, demise and dispose of, to sue and be sued, implead and be impleaded, in any court of justice whatever; and to make and use one common seal, and the same to alter and renew at pleasure: <i>Provided always</i> , That the said officers, and each and every of them, before they proceed to execute their respective offices, shall take and subscribe the oath or affirmation of allegiance to this state, and likewise an oath or affirmation that they will faithfully discharge and execute such office according to the best of their knowledge and understanding.
Title.	
May hold property.	
Officers to be qualified.	
To hold common council.	3. <i>And be it enacted</i> , That the mayor, recorder, aldermen and assistants, or a majority of them, of which the mayor or recorder is always to be one, shall have full power and authority, from time to time, and at all times hereafter, to hold a common council within the said borough, at such convenient place as the mayor, or, in his absence, the recorder shall appoint, and to make such by-laws, ordinances and regulations, in writing, not repugnant to the laws and constitution of the state, nor of the United States, and the same to enforce, revoke, alter and amend, as to them shall appear necessary for the well ordering and governing of the said borough and the inhabitants thereof, to administer all oaths incidental and necessary to the execution of their office, and to appoint a borough treasurer, borough marshal, and such other subordinate officers as they may think necessary for the good government of the said borough, and by ordinance to require such securities from the several officers, and annex such fees to the several offices of the said corporation, as to them shall seem necessary and convenient, and to make, limit, impose and tax reasonable fines and amercements against all, and upon all persons who shall offend against the laws, ordinances and regulations of the corporation, made as aforesaid: <i>Provided always</i> , That no fine or amercement shall exceed twenty dollars, and all and every such fines and amercements, to take, demand, require and levy of the goods and chattels of each offender, by warrant issued under the hand and seal of the mayor, recorder, or either of the aldermen, directed to the marshal of the said borough, who is required and authorized to execute the same; which fines and amercements shall be paid to the said borough treasurer, to be appropriated to the use and benefit of the inhabitants thereof: <i>Provided always</i> , That every person who may think him or herself aggrieved by the decision of the said mayor, recorder or single alderman, may appeal to the common council, who are hereby required to hear his or her cause of complaint, and to do therein what unto them shall appear just and equitable.
By-laws.	
May appoint borough officers.	
Levy fines.	
Aggrieved may appeal.	

4. *And be it enacted*, That until the said corporation shall have provided a suitable place within the same, for the confinement of persons charged with, or convicted of offences, subject to their cognizance, it shall be lawful for the mayor, recorder and aldermen, or either of them, to commit offenders to the gaol of Middlesex county, by and with the permission of the board of freeholders of said county.

1813.

Offenders may be committed to Middlesex gaol.

5. *And be it enacted*, That the said mayor, recorder, aldermen and assistants, or a majority of them in common council met as aforesaid, shall have the sole, only and exclusive right and power of licensing all and every inn-keeper, tavern-keeper and retailer of spirituous liquors, residing within the said borough, subject to the same provisions, and in like manner as the same may be lawfully done by the court of general quarter-sessions of the peace in this state.

May license tavern-keepers.

6. *And be it enacted*, That in case a vacancy shall happen in the office of mayor and recorder of said borough, by death, resignation, removal or otherwise, in such case the aldermen shall meet together, and by plurality of voices, choose one of their number, who shall have and execute the duties annexed to both offices, until a mayor and recorder shall be appointed and commissioned according to law, and that as soon as may be convenient; and when by death, removal or otherwise, any vacancy or vacancies shall happen in any of the offices herein rendered elective by the inhabitants of the said borough, the mayor for the time being is hereby required and directed, by advertisement or otherwise, giving at least five days notice, to call a meeting of the inhabitants of the said borough, qualified to vote as aforesaid, who, when assembled, are hereby authorized, by a plurality of voices, to elect such and so many fit persons as are necessary to fill up the offices and supply such vacancy or vacancies; which officers, so elected, shall be sworn in the manner aforesaid, and shall continue in office until the next annual election.

Vacancies, how supplied.

Town-meetings may be called.

7. *And be it enacted*, That the inhabitants of the said borough of Princeton, at their annual town-meeting, shall vote such sum or sums of money as they may think necessary to be raised for the ensuing year, for the exigencies of the said borough, which sum shall be assessed upon the inhabitants by the assessor, agreeably to the laws and regulations to be made by the common council of the said borough for that purpose, and collected by the collector at such time, and be paid and disposed of in such manner as the common council shall direct; and if no sum, or an insufficient sum shall be voted to be raised, and the interest of the borough require it, the common council are hereby authorized to call a meeting of the inhabitants, by advertisements, giving at least five days notice, and to propose to them in their opinion the sum necessary to be raised, and whatever sum the inhabitants shall by plurality of voices vote to be raised, shall be assessed and collected, paid and disposed of in manner aforesaid: *Provided always*, That if any person shall think him or herself aggrieved by any assessment made as herein before directed, he or she may appeal to the common council, who are hereby re-

Money, how raised.

Additional supplies, how raised.

1813. quired to hear his or her complaint, and redress the grievance, if any shall be made to appear.

Assessments
on vacant lots.

Proviso.

8. *And be it enacted*, That all such improvements upon or in front of vacant lots, as shall or may be authorized and required to be made by any law, ordinance, regulation or other act of the said corporation, shall, and the same are hereby directed to be made by an equable assessment upon the inhabitants of the said corporation: *Provided*, That the powers, privileges and authorities granted by this act to the said mayor, recorder, aldermen, and assistants of the borough of Princeton, shall continue and be held by them during the term of ten years, at the expiration of which time, nothing in this act shall be so construed, as to prevent the repealing the same, and revoking and annulling the powers, privileges and authorities hereby granted.

See supplement, January 20th, 1814.

PAM. 14.
See ante 547.

AN ACT for the more effectual enforcement of the provisions contained in an act entitled "An act for the protection of steam-boats, owned and navigated by citizens of this state."

Passed the 12th of February, 1813.

Preamble.

WHEREAS the legislature of the state of New-York have passed an act for the more effectual enforcement of the provisions contained in an act for the further encouragement of steam-boats on the waters of that state, whereby it has become expedient and just that a similar act should be passed for the more effectual enforcement of the provisions contained in the act for the protection of steam-boats owned and navigated by citizens of this state—

How boats
may be se-
cured.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That any person or persons who shall or may be entitled to seize and take into possession any boat or boats moved by steam or fire, or to whom the forfeiture of such boat or boats would accrue after such seizure in virtue of the act entitled "An act for the protection of steam-boats owned and navigated by citizens of this state," passed the twenty-fifth of January, eighteen hundred and eleven, shall and may be entitled to the same remedy both in law and equity, for the recovery of such boat or boats, with the engine, tackle and apparel thereof, as if the same had been tortiously and wrongfully taken out of his or her possession.

Injunction to
be issued.

2. *And be it enacted*, That when any writ, suit or action is brought for the recovery of such forfeiture, the defendant or defendants to such writ, suit or action, the captains, mariners and others employed in navigating said steam-boat so liable to seizure and forfeiture, shall be prohibited by writ of injunction, from navigating with or employing said boat or boats, engine or engines, or from removing the same or any part thereof, out of the jurisdiction of the court, or to any other place than that which

shall be directed for their safe-keeping, by the court, during the pendency of such suit or suits, action or actions, or after judgment shall be obtained, if judgment shall be against the defendant or defendants, or the matter or thing forfeited.

1813.

3. *And be it enacted*, That when the plaintiff shall elect to sue out an injunction, the court granting the same shall impose upon them such rules as may appear just and proper to prevent unnecessary delays in bringing such suit to issue and trial.

Suits not to be delayed.

AN ACT for the inspection of flour and meal.

PAM. 30.

Passed the 16th of February, 1813.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the person administering the government of this state shall from time to time appoint one or more inspectors of flour and meal, in each of the cities of Perth-Amboy, Burlington, New-Brunswick and Trenton, and as many inspectors of flour and meal in each county in this state, as shall appear necessary, who shall hold their respective offices during the pleasure of the person administering the government aforesaid.

Governor to appoint inspectors.

2. *And be it enacted*, That the inspectors to be appointed in pursuance of this act, before they enter upon the duties of their respective offices, shall take the following oath or affirmation, before one of the judges of the court of common pleas, viz.: I, A. B. do swear (or affirm, as the case may be) that I will faithfully, truly and impartially, according to the best of my judgment, skill and understanding, execute, do and perform the office and duty of inspector and examiner of flour and meal, according to law.

Oath to be taken.

3. *And be it enacted*, That no wheat flour, rye flour, indian meal or buckwheat meal, shall be shipped for exportation out of this state to a foreign market, before the same shall have been submitted to the view and examination, and approved of and branded by one of the inspectors aforesaid; and it shall not be lawful for such inspector to brand any cask containing indian meal, unless the same shall have been made of corn properly kiln-dried, and shall be ground fine and bolted.

Articles to be inspected and branded.

4. *And be it enacted*, That all wheat flour, rye flour, indian meal or buckwheat meal, manufactured for exportation as aforesaid, shall be packed in good and strong casks, made of seasoned oak, or other suitable timber, each cask whereof shall be hooped with at least ten hoops, three of which hoops shall be on each chimb, and properly nailed, which said casks shall be but of two sizes, one size whereof shall contain one hundred and ninety-six pounds of flour or meal, with staves of twenty inches long, and each head sixteen inches and one half diameter—the other size whereof shall contain ninety-eight pounds of flour or meal, the staves whereof may be twenty-two inches long, and each head fourteen inches diameter, or the staves may be twenty-seven

Flour, &c., how packed.

Size of casks.

1813.

Indian meal
may be pack-
ed in hogs-
heads.

To be brand-
ed.

Qualities to be
marked.

Duty of in-
spectors.

To brand.

To weigh.

Inspector's
fees.

inches long, and each head not to exceed twelve inches diameter, both which sizes of casks shall be made nearly straight for the convenience of stowage, and the tare of said casks respectively shall be marked on one head with a marking iron: *Provided nevertheless*, That nothing in this act shall be construed to prevent the packing of indian meal in hogsheads, for exportation, which shall contain eight hundred pounds, and be duly inspected and branded; and each cask of flour and meal packed as aforesaid, shall be branded with the initials of the christian name and surname of the manufacturer thereof, at full length, together with the nett weight of the flour or meal which shall be contained in each cask, except hogsheads of indian meal, on which the nett weight only shall be branded; and on each cask of wheat flour intended for the first quality, shall be branded the word "superfine," and on each cask intended for second quality, shall be branded the word "fine," and on each cask intended for the third quality, shall be branded the words "fine middlings," and on each cask intended for the fourth quality, shall be branded the word "middlings," and on each cask of rye flour intended for the first quality, shall be branded the words "superfine rye flour," and on each cask intended for the second quality, shall be branded the words "fine rye flour," and on each cask of indian meal shall be branded the words "indian meal," and on each cask of buckwheat meal shall be branded the word and letter "B. meal," before either respectively shall be offered for inspection; and the manufacturer or owner of any flour or meal put up in a cask or casks, shall be and hereby is made subject to a penalty of fifty cents for every pound each such cask is tared less than the true weight thereof, and any inspector of flour or meal having reason to suspect such cask or casks to be falsely tared, may ascertain the same by a suitable examination thereof.

5. *And be it enacted*, That it shall be the duty of the said inspectors, upon application to them made, to examine and determine the quality of such flour and meal, and on each cask made and branded, and the flour or meal packed therein agreeably to this act, he shall then and not otherwise, brand the initial letter of his christian name, and his surname at full length, together with the name of the city, town or county, where the same is inspected, on the quarter, in a distinguishable manner; and in all cases where the brands describing the quality of flour or meal shall not in his judgment be branded according to its respective kinds and qualities, he shall alter the same so as to describe the real quality, according to the true intent and meaning of this act; that it shall be the duty of the inspector from time to time to weigh such casks of flour and meal as he or they shall suspect of being too light, and if found not to contain the just and true weight, to mark or brand the same on the head with the word "light," and for each cask which he or they shall so mark or brand with the word "light," such inspector shall be entitled to receive from the owner or shipper of such flour or meal, for his trouble of weighing the same, that is to say, for every barrel or half barrel, the sum of twenty cents, and for each hogshead forty-five cents; and every cask of flour or meal which shall not con-

1813.

tain the full weight branded thereon, the manufacturer thereof shall forfeit and pay for every pound weight of flower or meal so deficient, the sum of twenty cents, and on all flour or meal injured in manufacturing, or otherwise damaged so as not to be fit for exportation under any denomination, in the judgment of the said inspector, he shall mark or brand on the same, the word "bad," which flour or meal, so marked or branded "light" or "bad," shall not be shipped out of this state to any foreign market, under the penalty of five dollars for every cask so marked or branded, to be recovered in any court having cognizance thereof, by action of debt, by any person who shall prosecute for the same; and for the trouble aforesaid the said inspectors shall be entitled to receive two cents for each and every cask of flour or meal, and four cents for each and every hogshead of indian meal he shall so inspect or examine, to be paid him by the owner or possessor of such flour or meal, who shall charge the buyer or purchaser of such flour or meal, with one half of the amount of such inspection over and above the price of such flour or meal.

Flour or meal not to be shipped.

Further fees of inspector.

6. *And be it enacted*, That all flour or meal purchased for exportation shall be inspected as aforesaid at the time and place of such exportation, and if any purchaser of flour or meal for exportation shall not have the same inspected as aforesaid at the time and place of such exportation, such purchaser or exporter shall forfeit and pay for every cask of flour or meal, five dollars, although the said flour or meal may have been inspected and branded any time previous to such purchase.

Where to be inspected.

Penalty.

7. *And be it enacted*, That if any person shall lade or attempt to lade on board any vessel, with intent to ship or export the same direct out of this state to any foreign market, any flour or meal not branded as aforesaid by one of the inspectors for good and merchantable flour or meal, such person shall forfeit the same; and if any person shall have exported any flour or meal out of this state to a foreign market, not branded by one of the inspectors for good and merchantable flour or meal, such person shall forfeit and pay the sum of five dollars for every cask of flour or meal so exported.

Penalty for exporting without inspection.

8. *And be it enacted*, That it shall and may be lawful for any inspector of flour or meal to enter on board of any vessel, between sunrise and sunset, to search for flour or meal that he may have reason to suspect has been shipped contrary to the true intent and meaning of this act, and if any person shall hinder or interrupt any such inspector in so entering on board and searching, every such person shall forfeit and pay one hundred dollars, to be recovered in any court having cognizance thereof, one half thereof to the use of the overseers of the poor in the city or town where the offence may happen, and the other half to the person prosecuting for the same.

Inspector may go on board vessels to examine.

Penalty for hindrance.

9. *And be it enacted*, That no inspector of flour or meal shall purchase any flour or meal other than for his own private use, under the penalty of five hundred dollars; and if any person shall alter or counterfeit any of the aforesaid brand marks, whether state or private, such person shall forfeit for every such offence

Inspectors not to make purchases.

1813.

Brands to be
cut out of
empty casks.

the sum of one hundred dollars; and that if any person shall put any flour or meal into any empty casks for sale, which have been branded by the inspector before such casks were emptied, without first cutting out the said brands, such person shall for every cask so repacked, forfeit and pay the sum of five dollars; and that every person offering for sale any flour for wheat flour, which shall be found upon examination to be or contain a mixture of indian meal or any other mixture, such person shall forfeit and pay for every such cask so mixed the sum of five dollars, and the flour shall be liable for the payment thereof.

Fines and penalties
how recovered.

10. *And be it enacted*, That all such fines, penalties and forfeitures aforesaid, not herein otherwise directed to be collected, shall be recoverable before any justice of the peace, or in any court of record in this state having cognizance thereof, by any person who will prosecute for the same, one half to the prosecutor, and the other half to be paid to the overseers of the poor of the city or town where the fraud is detected; and for the more certain and easy recovery of the penalties for the false tare or brand mark upon any cask of flour or meal, it shall be lawful for the inspectors thereof to seize and sell the same, and out of the nett proceeds retain such penalty or penalties, one half for his own use, and the other half to the overseers of the poor in the city or town where the same may be recovered, to the use of the poor thereof, and pay the remainder to the owner or consignee of such flour or meal.

In what case
inspector may
seize and sell.

P.A.M. 48.

AN ACT regulating travelling on public and turnpike roads in this state.

Passed the 18th of February, 1813.

Preamble.

WHEREAS the provisions in some of the acts incorporating turnpike companies, with regard to carriages meeting and overtaking each other, are variously expressed and differently understood, and in some acts of incorporation entirely omitted, in consequence whereof great inconvenience has arisen to the good people of this state and others travelling the said turnpike roads, and whereas it is of importance that a like regulation should be adopted whereby travelling on all public roads of this state may not be interrupted: **THEREFORE—**

Carriages to
keep to the
right.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all drivers of carriages, sleighs or sleds, whether of burthen or of pleasure, using any of the turnpike or public roads in this state, when met by another carriage, sleigh or sled, shall keep to the right, and when overtaken by a carriage, sleigh or sled, they shall likewise keep to the right, so as in both cases to permit such carriage, sleigh or sled, either met or overtaken, to pass free and uninterrupted, and if any person shall offend against this provision, such person shall forfeit and pay the sum of two dol-

Penalty.

lars, to any person who shall be obstructed or hindered in his or her passage and will sue for the same, and shall be subject to an action of damages for every such offence, to be recovered with costs of suit. 1814.

A SUPPLEMENT to the act, entitled "An act to regulate the fisheries in the river Delaware, and for other purposes," passed the twenty-sixth of November, one thousand eight hundred and eight. PAM. 71. See ante 541.

Passed the 20th of January, 1814.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall be the duty of the overseers of the poor of the several townships of this state, adjoining the river Delaware, to prosecute for, and recover with costs of suit, any of the fines and penalties incurred within the limits of their respective townships, by virtue of the act to which this is a supplement, from any person or persons who may have incurred the same, by offending against the provisions of the before recited act, the one half to be applied to the use of the poor of the township wherein the offence was committed, and the other half to the use of the overseers of the poor who shall prosecute the same to effect. Duty of overseers of the poor.

2. *And be it enacted*, That so much of the above recited act which requires the constables of the several townships adjoining the river Delaware to view the same, and to receive compensation therefor, be, and the same is hereby repealed. Repeat.

AN ACT supplementary to an act passed the eleventh day of February, in the year of our Lord, one thousand eight hundred and thirteen, entitled "An act for incorporating the town of Princeton." PAM. 146. See ante 561.

Passed the 20th of January, 1814.

WHEREAS the mayor, recorder, aldermen and assistants of the borough of Princeton, in common council assembled, have, by their memorial, set forth to this legislature, that they have no place of security to which the judicial officers of said borough can commit offenders, and that they have no immediate prospect of procuring such a place without the aid of the legislature: and whereas, it is right that the officers of said borough should be allowed to commit offenders against the laws of this state or the United States, and the ordinances of the corporation, to some place of security, until they can erect or procure a suitable prison within said borough; **THEREFORE—** Preamble.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall be lawful for the mayor, recorder and aldermen of the borough of Princeton, or Offenders, where to be committed.

1814.

either of them, to commit every offender against the laws of this state, or of the United States, or the ordinances of the corporation of the said borough, whom by law they are authorized to commit to the county gaols of Middlesex and of Somerset, that is to say: for offences committed within their jurisdiction and subject to their cognizance in that part of the said borough which lies in the county of Middlesex, the offenders to be committed to the Middlesex gaol, and for offences under like circumstances, committed in that part of the borough which lies in the county of Somerset, the offenders respectively to be committed to the Somerset gaol: *Provided nevertheless*, That the said corporation shall provide for and defray all the necessary expenses incurred by the support of the offenders so committed, by any of the judicial officers of the said borough, at the same rate and on the same terms as if the said offenders had been committed to either of the gaols aforesaid, by a justice of the peace in and for either of the counties aforesaid.

Gaolers to receive and keep prisoners.

2. *And be it enacted*, That the keepers of the said gaols respectively, be and they are hereby required to receive and safely to keep in custody, all offenders who may be committed to either of said gaols, by either of the judicial officers of the said borough, until the offenders shall severally be discharged by a due course of law: *Provided nevertheless, and it is hereby enacted*, That this act shall cease to operate within two years from and after the passing of the same.

PAM. 4.

AN ACT to prevent public or private roads being laid out or opened on or through lands belonging to this state.

Passed the 3d of November, 1814.

Roads not to be laid out through lands of the state.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That no law of this state for laying out or opening public or private roads, shall be so construed as to permit any person or persons whatever, to lay out or open any public or private road, through or upon any lands belonging to this state, unless the consent of the legislature be first obtained for that purpose.

Penalty.

2. *And be it enacted*, That if any person or persons shall hereafter open or attempt to open any public highway or private road through or upon any of the aforesaid lands, he, she or they shall be deemed guilty of a high misdemeanor, and shall each and every of them, so offending, forfeit and pay the sum of one thousand dollars, to be recovered in an action of debt, to be prosecuted by the treasurer of this state, for the use of the state.

See act, 9th February, 1818.

1815.

AN ACT to repeal so much of the supplement to an act passed the thirty-first of October, one thousand seven hundred and ninety-six, and so much of an act passed the twelfth day of November, one thousand seven hundred and ninety, as prescribes the time of choosing senators of the United States.

PAM. 7.

Passed the 18th of January, 1815.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That so much of an act, passed the thirty-first day of October, one thousand seven hundred and ninety-six, which prescribes, that a senator or senators of the United States, on the part of this state, shall be elected on the thirty-fourth day previous to the first Wednesday in December, and that so much of an act passed the twelfth day of November, one thousand seven hundred and ninety, as prescribes that a senator or senators of the United States, on the part of this state, shall be appointed on the first Tuesday of November, in every year in which this state is authorized to elect a senator or senators of the United States, be, and the same are hereby repealed.

See ante 264.

See ante 106.

AN ACT to preserve the free navigation of the river Delaware, near the head of the tide waters thereof.

PAM. 8.

Passed the 9th of February, 1815.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the first day of May next, it shall not be lawful for any schooner, sloop, shallop, or other vessel, to ride at anchor in the channel of the river, at any place between Lamber-ton and the head of the sloop navigation at Bloomsbury, so as in any way to impede, obstruct, or endanger the free navigation of all vessels, coming to or departing from any of the landings or wharves, situated at the two places above mentioned; and all such schooners, sloops, shallops, or other vessels which ride at anchor, are required so to arrange themselves on each side of the river, as at all times to leave a space of not less than two hundred feet of the said channel, open and clear for the free ingress and regress, of all vessels plying to or from any of the said landings or wharves: and the captain, master, owner, or other person having the command of any such schooner, sloop, shallop, or other vessel, who shall wilfully contravene the provisions of this act, by continuing to ride at anchor in any part of the said channel, so required to be left free and open, when he might have with safety removed from the same, shall forfeit and pay, for each and every such offence, the sum of ten dollars, to be prosecuted for and recovered by action of debt, before any justice of the peace, with costs of suit, by any person or persons who may think themselves aggrieved thereby, the one half to the use of the poor of the township of Nottingham, and the other half to

Vessels not to anchor in the channel.

Penalty.

1815. the use of the person or persons who shall sue for and prosecute the same to effect.
- Preamble. 2. *And whereas* it has been represented that the persons on board of certain vessels employed in the collection and transporting of paving stones, are in the practice of throwing overboard into the river, such irregular or offal stones, as are not deemed fit for the purposes of paving, thereby obstructing and filling up from time to time the bed of the river; for remedy whereof—
- Stones, &c. not to be thrown in the channel. *Be it further enacted*, That such practice is hereby declared injurious and unlawful, and all and every person or persons, who shall hereafter be guilty of throwing overboard into the river, stones, gravel, sand, or any other substance which may have a tendency to fill up the bed of the said river, and shall be convicted thereof, shall forfeit and pay for each and every such offence the sum of twenty-five dollars, to be prosecuted for, recovered and applied, as is directed in the preceding section.
- Penalty. 3. *And be it enacted*, That it shall be the duty of every justice of the peace, upon his own view, or the representation or information of any person on oath or affirmation, to issue his warrant to one or more constable or constables in his county, commanding him or them to require such and so many persons as he or they shall deem necessary to aid and assist him or them in apprehending every person offending against the provisions contained in the preceding sections, and forthwith to bring such offender, when apprehended, before the said justice, or any other justice of the peace, to be proceeded against in the manner herein before directed: *Provided*, That this act shall not extend to impair or in any way infringe on the mutual arrangements entered into by this state and the state of Pennsylvania.
- Apprehension.

PART II. AN ACT for the more equal representation of the counties of Cumberland and Morris, in the general assembly of this state.

Passed the 10th of February, 1815.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the people of the county of Cumberland shall annually hereafter, on the days appointed by law, choose three persons to represent them as members of the general assembly of this state.

2. *And be it enacted*, That the people of the county of Morris shall annually hereafter, on the days appointed by law, choose four persons to represent them, as members of the general assembly of this state.

AN ACT relative to executors.

1815.

Passed the 11th of February, 1815.

PAM. 10.
See ante 226.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That if in any last will or testament hereafter to be proved, power shall be given to two or more executors to sell or dispose of any part or the whole of the real estate of the testator or testatrix, and one or more of the executors shall refuse to prove the will, or shall die, that then, unless it is otherwise expressed in the said will, the trust shall vest in the acting executors, or the survivor or survivors, and it shall be lawful for the acting or surviving executor or executors, to execute the trust in the same manner as if all had been living or had proved the said will.

Whereas doubts have arisen if a debtor be appointed executor or executrix, in any last will or testament, he or she is thereby exonerated from the payment of his or her debt; therefore—

2. *And be it enacted,* That if any person shall hereafter appoint his debtor an executor or executrix of his or her last will or testament, such appointment shall not, unless otherwise expressed in the said will or testament, be construed so as to discharge such executor or executrix from the payment of the debt, but the said debt shall be considered assets in his or her hands to be accounted for in the same manner as any other part of the personal estate.

AN ACT to prohibit unincorporated banks.

PAM. 13.

Passed the 15th of February, 1815.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That no association of citizens unincorporated, or not incorporated for the express purpose of banking or establishing a banking-house or office of discount and deposit, by the laws of this state or the United States, be permitted to establish directly or indirectly, within this state, any banking-house or office of discount and deposit, nor to discount any note, bond, bill or other obligation, as a banking institution, nor to continue the same after the first day of May next, if any such should have been heretofore established, and all and every person or persons who shall, contrary to the true intent of this act, be concerned in such establishment, or in continuing the same after the first day of May next, should any such heretofore have been established, on conviction thereof in any court in this state having cognizance of the same, shall for every such offence forfeit and pay, for the use of the state, the sum of twenty thousand dollars, and the private estate of such person or persons offending as aforesaid, shall be liable for the payment of such forfeitures, and for all notes that may have been, or shall be issued, by the said associations:

1815.

PAM. 14.

AN ACT relative to fees and proceedings in the court of appeals, and in the prerogative court.

Passed the 16th of February, 1815.

- Fees.** 1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That when an appeal is taken from a decree, or order of the chancellor, to the court of appeals, the same fees shall be allowed to the same officers and persons, as are allowed by law for like services in the court of chancery.
- Costs.** 2. *And be it enacted,* That it shall be in the discretion of the court of appeals, in cases of appeal from a decree or order of the chancellor, to award costs or not.
- Pleadings, &c. to be delivered to clerk of court of appeals.** 3. *And be it enacted,* That in cases of appeal from a decree or order of the court of chancery, it shall be the duty of the clerk of the court of chancery to deliver to the clerk of the court of appeals, all the pleadings, depositions, exhibits and papers which may have been filed in his office, relating to the cause in which the appeal hath been taken, and also copies of the several orders and decree made in said cause, instead of a transcript of the proceedings, giving the said clerk of the court of chancery a receipt for the same; which papers shall be filed by the clerk of the court of appeals, for the purpose of being used at the hearing of such appeal.
- Papers to be returned.** 4. *And be it enacted,* That when a cause hath been decided by final decree or order of the court of appeals, it shall be the duty of the clerk of that court to return to the clerk of the court of chancery, all the papers which have been received by him from the clerk of the court of chancery in such cause, for which he shall take a receipt, together with a copy of the order or decree of the court, which order or decree it shall be the duty of the court of chancery to carry into effect; and it shall be the duty of the said clerks to file the said receipts in their respective offices, for the benefit of the parties interested in said papers.
- Fees.** 5. *And be it enacted,* That the same fees shall be allowed in the prerogative court, in cases where no fees are by law provided, to the same officers and persons, as are allowed by law for like services in the court of chancery; and that the payment of costs, when awarded, may be compelled in the same manner as the court of chancery is authorized to compel payment thereof.

PAM. 23.

AN ACT establishing a militia system.

Passed the 18th of February, 1815.

- Who enrolled.** 1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That every free, able bodied white male inhabitant of this state, who is or shall be of the age of eighteen years, and under the age of forty-five, (except ministers of the gospel, the vice-president
- Who exempted.**

1815.

of the United States, the officers judicial and executive of the government of the United States, the judges of the supreme court of this state, the members of both houses of congress and their respective officers, all custom-house officers with their clerks, all post officers and stage drivers who are employed in the care and conveyance of the mail of the post-office of the United States, all ferrymen employed at any ferry on the post-road, all inspectors of exports, all pilots, all mariners actually employed in the sea-service of any citizen or merchant within the United States, all students of divinity, and students of the two colleges in this state, except in cases of actual invasion, shall severally and respectively be enrolled by the captain or commanding officer of the company within whose bounds such citizen shall reside. And in all cases of doubt respecting the age of any person, the party questioned shall prove his age to the satisfaction of the officers of the company, or to the assessor of the township within whose bounds he may reside: *Provided nevertheless*; That every person who is actually enrolled in, or shall hereafter join any uniform corps, that is now or may be established under this act, fully equip himself, and continue faithfully to do the duties required of him on days appointed by law for training, and on such other days as the commanding officer of said company or troop shall require, for the term of ten years, on making the same appear to the satisfaction of the brigade board, hereinafter instituted, shall be entitled to receive from the said brigade board, a certificate exempting him ever after from common militia duty; and the commanding officer of the company or troop in which such person may have so served, shall not erase such person's name from his muster roll, but write opposite to his name, on the muster roll of said company, exempted from common duty. And any person who may have held any commissioned office under this act, for the term of ten years, shall on removal or resignation, be entitled to the same privilege of exemption without fine, if he make the same appear by a certificate from the brigade board; but no exemption created by this proviso, shall in any case clear or exonerate any person exempted from common militia duty, from bearing his proportion of actual service in time of war, insurrection, invasion, or other emergency.

Proof.

Proviso.

2. *And be it enacted*, That the militia in the several counties of this state, except Cape-May, shall form each a brigade, to be called after their respective counties. The Burlington, Gloucester, Salem and Cumberland brigades, and the Cape-May regiment, shall form the first division: the Bergen, Essex and Morris brigades, shall compose the second division: the Somerset, Middlesex and Monmouth brigades, shall compose the third division: the Hunterdon and Sussex brigades, shall compose the fourth division: the militia of the county of Cape-May, shall form an independent regiment, under the command of a lieutenant-colonel, who shall, from time to time, as occasion may require, issue warrants to the commandants of battalions for the election of company officers, receive and transmit their returns to the adjutant-general and perform all the duties of commandants of brigades, as far as may be necessary for the due organization and

Organization.

1815.

order of said regiment: that the field officers of said regiment shall form a regimental board, of which the adjutant shall be ex officio, judge-advocate, which board shall meet at the same time that the several brigade boards are required, by law, to meet, and shall exercise all the powers of a brigade board, so far as respects the organization of new companies or battalions, the alteration of the boundaries of old ones, the settlement of accounts, and the general superintendence of the military concerns of said county, and that the adjutant of said regiment shall perform the duties required of brigade majors and inspectors, for which service he shall receive ten dollars per annum; and the several regiments, independent battalions, battalions, squadrons and companies, shall continue as at present arranged, subject, nevertheless, to such alteration and arrangements as are hereinafter provided for.

Present officers continued.

General staff.

Officers of division.

Brigade.

Regiment, battalion and company.

Number of privates.

Regimental staff.

Rank.

3. *And be it enacted*, That the present officers of the militia of this state, shall continue to hold and exercise the several ranks and commissions which they now respectively hold. Vacancies by death, removal, resignation or otherwise, shall be filled up, so that the militia shall be officered as follows:—There shall be a general staff, of which the commander in chief shall appoint his four aids-de-camp with the rank of lieutenant-colonel, one quarter-master-general and one adjutant-general, severally, with the rank of brigadier-general; and whenever he may consider that the service shall require it, one deputy adjutant-general and inspector, and one deputy quarter-master-general, to each brigade or division, as he may judge expedient, who shall respectively rank as lieutenant-colonels: to each division there shall be one major-general and two aids-de-camp, with the rank of a major: to each brigade, one brigadier-general, with one brigade-inspector, to serve also as a brigade-major, with the rank of major, and one aid-de-camp, to be taken from the line, one brigade-judge-advocate, one brigade-paymaster and one brigade-quarter-master; to each regiment one lieutenant-colonel; and to each battalion or squadron, one major; to each company of infantry, light-infantry, and grenadiers, one captain, one lieutenant, and one ensign, four sergeants, four corporals, one drummer, one fifer, and not more than sixty-four nor less than forty privates, or as near as may be, having regard to their local situation; to each troop of horse there shall be one captain, two lieutenants and one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter, and not more than sixty-four nor less than forty troopers; said companies of horse to be raised hereafter only by the permission of the commander in chief; to each company of artillery, there shall be one captain, and two lieutenants, four sergeants, four corporals, one drummer, one fifer, not more than six nor less than three gunners, not more than six nor less than three bombardiers, and not more than sixty-two nor less than fifteen matrosses; there shall be a regimental staff, to consist of one adjutant, and one quarter-master, to rank as lieutenants, one paymaster to each battalion, one surgeon and one surgeon's mate, one chaplain, one sergeant-major, one drum-major, one life-major, and one quarter-master sergeant. All officers shall take rank according to the date of their commissions; and when two of the

same grade bear equal date, then their rank shall be determined by lot, to be drawn by them before the commanding officer of the division, brigade, regiment, battalion, company or detachment. The regimental staff, except the paymasters, shall be appointed by the field officers, *and the adjutants and quarter-masters shall be appointed from among the subalterns of the regiment.* The brigade and regimental staff officers shall be commissioned by the commander in chief, on certificates of their appointment, under the hands and seals of the officers making the same: the non-commissioned regimental staff shall receive warrants from the commanding officers of the regiments and independent battalions; and further, there shall be one adjutant, one quartermaster, and one surgeon or surgeon's mate, to each squadron of cavalry, and each independent battalion. The non-commissioned officers and music to be appointed by the captain and subalterns. The majors of independent battalions shall be entitled to promotion agreeably to seniority. And in case any major of an independent battalion shall be promoted to the rank of lieutenant-colonel, he shall still continue to do the duties of major as before his promotion, until attached to some regiment, or called into actual service, when he shall be entitled to command according to his rank of lieutenant-colonel, and the date of his commission as such.

1815.

Italic, repealed by act of March 2, 1820.
How commissioned.

Non-commissioned officers and music.

Majors of independent battalions.

4. *And be it enacted,* That each and every officer who has been or may hereafter be appointed and commissioned in the manner aforesaid, and who shall not already have taken the same, shall, previous to their entering on the execution of their respective offices, give assurance of fidelity and attachment to the government of this state, by taking and subscribing the following oath or affirmation, before some general or field officer of the brigade:

Oath or affirmation.

I, do sincerely profess and swear, (or affirm as the case may be) that I will, and do bear true faith and allegiance to the government established in this state, under the authority of the people, and will with integrity execute the office of of the militia of New-Jersey, according to the best of my abilities. So help me God.

And a certificate thereof shall be made upon the back of every commission, by the general or field officer before whom the said oath or affirmation shall have been taken and subscribed.

Certificate.

5. Repealed, and supplied by act, 2d March, 1820.

6. *And be it enacted,* That the militia of this state shall rendezvous three times in every year, for the purposes of training, disciplining and improving in martial exercise, once by companies or troops, within their respective bounds, on the third Monday in April, once by battalions, within their respective bounds, with the company or companies of artillery, raised within the bounds of the battalion, annexed: the first battalion of the first regiment on the first Monday in May, the second battalion of said regiment on the Tuesday following, the first battalion of the second regiment on the Wednesday following, the second battalion of said regiment on the Thursday following, the first battalion of

Trainings.

By battalion.

1815.

By squadron.

By regiment.

Officers to advertise.

Rank of independent battalion.

Days of review, how to be changed, &c.

the third regiment on the second Monday of May, the second battalion of said regiment on the Tuesday following, the first battalion of the fourth regiment on the Wednesday following, and the second battalion of said regiment on the Thursday following, the first battalion of the fifth regiment on the third Monday of May, the second battalion of said regiment on the Tuesday following, and the independent battalions shall parade on the days immediately succeeding the trainings of such battalions as may be formed into regiments, according to their rank in the brigade, always excepting the first and last days of the week. The troops of horse, of Bergen, Essex, Morris, Somerset, Middlesex and Monmouth brigades, shall meet by squadron, on the fourth Monday in May, within their respective brigades, and it shall be lawful for the troop or troops of horse belonging to the other brigades, to meet in like manner, but if the remote situation of the several troops composing a squadron, shall render such meetings inconvenient, then they shall meet by troop, at the time and place directed for the meeting of the battalion, within the bounds of which the majority of the troop may reside, subject to the command of the major or commandant of the battalion, and once by regiments and independent battalions, with the troop or troops of horse, and the company or companies of artillery, the major part of which shall be raised within the bounds of each regiment or independent battalion attached to the same, the first regiment on the first Monday of June, the second regiment on the Tuesday following, the third regiment on the Wednesday following, the fourth regiment on the Thursday following, and the fifth regiment on the second Monday of June; it shall be the duty of the captains or commanding officers of said companies or troops, the majors or commandants of battalions, the colonels or commandants of regiments, independent battalions and squadrons, to advertise the hour and place of meeting of their respective corps, on the days appointed by law, at least two weeks, in two of the most public places in the company or troop, and six of the most public places in the regiment, independent battalion, or squadron, so called to exercise; that it shall be the duty of every general of brigade, when more than one independent battalion exists under his command, to direct that they draw for rank by their commanding officer, in the presence of the general, and the battalion drawing the lowest number, shall be highest in rank, and called the first independent battalion of the brigade, and the other or others shall be numbered and named accordingly; and in every brigade in which there is an independent battalion, or battalions, the regiments shall proceed in their trainings, each on the days designated by law, and the independent battalion or battalions, shall follow according to their numerical order or rank, on the days immediately succeeding, always excepting the first and last days of the week; and further, that if the order aforesaid, in which the regiments and battalions are directed to exercise, shall be found inconvenient, it shall be lawful for the brigadier-general to change the order in which the said regiments and battalions aforesaid shall be exercised, at his discretion, not altering the days of training and exercise, but confining such dis-

cretion to naming the particular regiment or battalion that shall train or exercise on a particular day, as before mentioned, so that the inspection and review may be rendered more convenient to the brigadier-general and brigade-inspector; the brigade-inspector, by order of the brigadier-general, to give notice by advertisements set up in three of the most public places within the bounds of each regiment, and independent battalion, belonging to said brigade, at least thirty days previous to the day of meeting; *Provided, however,* That the regimental muster in the Cumberland brigade, shall commence on the second Monday in June, in every year, and the regiments and independent battalions of said brigade shall succeed each other in the same order, and continue to observe every other matter and thing enjoined by this act.

1815.

How notified.

Cumberland
regimental
trainings.

7. *And be it enacted,* That the fines for non-attendance on days of exercise, shall be as follows: on a field officer the sum of eight dollars; on every other commissioned officer the sum of four dollars; on every non-commissioned officer and private the sum of two dollars per day; and the same fines and penalties shall be respectively paid by every officer, non-commissioned officer and private, who shall be absent at either roll-call, or leave the parade of his regiment, battalion, squadron, troop or company, without permission obtained from the commanding officer, before the said regiment, battalion, squadron, troop or company, shall be discharged, which said fines shall and may be recovered in the manner directed in this act; and if any militia-man shall appear on parade without his musket or firelock, or if a trooper without his sword and pistols, he shall forfeit and pay fifty cents: *Provided,* That no militia-man shall be liable to such fines, who in the opinion of the company court created by this act, may be deemed unable to procure arms and equipments, or either of them, but when any militia-man shall be called into actual service, he shall appear fully equipped with every article required by act of congress, or be subject to a fine, if an officer, of ten dollars, or if a private, two.

Italic, repealed and supplied by act of March 2, 1820.

proviso.

8. *And be it enacted,* That in order to ascertain those persons, who by their absence on days of exercise shall be liable to the fines and forfeitures of this act, an orderly or first sergeant, appointed by the captain or commanding officer of every troop or company, shall, on every day of training, in presence of said captain or commanding officer of said troop or company, one hour after the time appointed for the meeting of the troop, company, battalion, squadron, or regiment, and also after the exercise is over and before the men are dismissed, call over the muster-roll of the said troop or company, noting those who are absent at each roll-call, and also all those who are deficient in arms or equipments, and the particular article or articles for want of which they are liable to be fined, and shall, six days prior to the day appointed for the meeting of the company court, by a written or printed notice, put up in three public places within the bounds of the company, a return of the names of the delinquents of said company, the amount of the fine or fines by them incurred, the

Fines how ascertained.

Roll to be called.

1815.

for want of goods and chattels to take the bodies of the delinquents and commit them to the gaol of the county, there to be kept until the fines and costs shall be paid. And the certificate of the constable, setting forth that he has in his possession an execution containing a demand against said delinquent for militia fines unpaid, and the exhibition of such execution to the gaoler shall be sufficient authority for said gaoler to retain said prisoner, until discharged by due course of law: *Provided nevertheless*, That the brigade board, or any three of them, upon being satisfied by the oath or affirmation of the delinquent committed to gaol, or otherwise, that the delinquent so committed is unable to pay, may grant a supersedeas to release and discharge such poor person from confinement. The form of the execution shall, as near as may be, be as follows:

Proviso.

Form of execution.

county,

The state of New-Jersey,

To one of the constables of the county of

Whereas the persons named in the schedule or list hereunto annexed, have been duly adjudged for deficiency in military duty and equipments, to pay the fines to their names respectively subjoined—you are therefore commanded forthwith of their several goods and chattels, respectively, within this said county, to levy, by distress and sale thereof, the fines set opposite their respective names, with costs, and to pay the same to the paymaster of the battalion, and, for want of goods and chattels, you are commanded to take the body or bodies of the person or persons so deficient, and deliver him or them to the keeper of the common gaol of said county, and the keeper thereof is hereby commanded to receive and safely keep the person or persons who shall be so committed, until they pay the same, or until discharged by order of the brigade board, or otherwise by due course of law; and you are to make return of this execution, with your doings therein unto me, within thirty days next coming; for which this shall be your sufficient warrant. Hereof fail not. Given under my hand and seal, the day of in the year of our Lord, eighteen hundred and

Justice of the Peace.

Surplus money.

13. *And be it enacted*, That if any money shall remain in the hands of any constable after making sale of the property of a delinquent, and paying the fines and costs of such delinquent, such money shall be paid by the constable to the said delinquent; but if he shall refuse to receive the same, then the said constable shall pay the said money to the paymaster of the battalion to which such delinquent belongs, to be by him accounted for in his settlement with the brigade board. And it shall be the duty of such constable, after having paid any such money into the hands of the battalion paymaster, immediately to certify the same to the judge-advocate or brigade board, and the fines and forfeitures imposed by this act on minors living with their parents and others having the proper care or charge of them, and those of apprentices, shall be paid by their respective parents, guardians, masters or mistresses, or levied of their respective goods and chattels.

Certificate.

14. *And be it enacted, That it shall be the duty of every battalion paymaster to make returns to the brigade board, of all such delinquent commissioned officers as may be returned to him by the orderly sergeant of the company; and the said battalion paymasters shall keep journals of all their proceedings, in the execution of the duties enjoined on them as battalion paymasters. They shall record in a book to be kept for that purpose, the amount of fines by them received, of whom, and in what manner received, whether by voluntary payment or of the constables, of the fines not collected or recovered, and the reason thereof, of moneys paid, to whom, and on whose order, and for what purpose, and shall lay the same, with their vouchers and receipts, before the brigade board for inspection and settlement.*

1815.

Italic, repealed and supplied by act of March 2, 1820.

15. *And be it enacted, That the brigade board shall appoint one reputable freeholder within their respective brigade, to act as brigade paymaster to the same, and one reputable freeholder within the bounds of each battalion, to act as battalion paymaster to the same, for the collection and payment of fines, which said brigade and battalion paymasters, before entering upon the duties of their office, shall severally give bond, with sufficient sureties, to be approved of by the commandant of the brigade, the brigade paymaster in the sum of two thousand dollars, the battalion paymaster in the sum of five hundred dollars, payable to the state of New-Jersey, with condition for the faithful performance of the duties of their respective offices, and shall repair to the clerk of the county in which they reside, and subscribe and take the following oath or affirmation :*

Paymasters, how appointed.

Bond.

I, *appointed paymaster of the brigade (or battalion, as the case may be) of militia, do swear (or affirm) that I will, to the utmost of my knowledge and ability, honestly and faithfully perform the duties of the office of paymaster of the said brigade (or battalion.) So help me God.*

Oath.

Which oath (or affirmation) the said clerk shall administer, and endorse on the said bond, and file the same in his office, to be prosecuted whenever the brigade board shall direct. The said clerk shall, on the back of the warrant of appointment, give a certificate, under his hand and the seal of the county, of said bond and oath (or affirmation) having been taken and filed, which shall be received as evidence of the authority of the said paymaster.

Certificate.

16. *And be it enacted, That the brigade paymaster shall receive and file all vouchers and returns, and keep proper and distinct accounts of the moneys arising from the fines and forfeitures in the several regiments and battalions in the brigade, which shall be paid and returned to him, and also shall receive and file all returns, orders, vouchers and receipts, for all moneys he may receive and pay out, conformably to the directions of this law, and submit his books of accounts, returns, orders, vouchers and receipts, to the inspection and examination of the brigade board, to whom he shall account from time to time for all moneys by him received, and produce orders for any disbursements he may have made. On receiving the list of fines imposed by the bri-*

Duty of brigade paymaster.

1815.

for want of goods and chattels to take the bodies of the delinquents and commit them to the gaol of the county, there to be kept until the fines and costs shall be paid. And the certificate of the constable, setting forth that he has in his possession an execution containing a demand against said delinquent for militia fines unpaid, and the exhibition of such execution to the gaoler shall be sufficient authority for said gaoler to retain said prisoner, until discharged by due course of law: *Provided nevertheless*, That the brigade board, or any three of them, upon being satisfied by the oath or affirmation of the delinquent committed to gaol, or otherwise, that the delinquent so committed is unable to pay, may grant a supersedeas to release and discharge such poor person from confinement. The form of the execution shall, as near as may be, be as follows:

Proviso.

Form of execution,

county,

The state of New-Jersey,

To one of the constables of the county of

Whereas the persons named in the schedule or list hereunto annexed, have been duly adjudged for deficiency in military duty and equipments, to pay the fines to their names respectively subjoined—you are therefore commanded forthwith of their several goods and chattels, respectively, within this said county, to levy, by distress and sale thereof, the fines set opposite their respective names, with costs, and to pay the same to paymaster of battalion, and, for want of goods and chattels, you are commanded to take the body or bodies of the person or persons so deficient, and deliver him or them to the keeper of the common gaol of said county, and the keeper thereof is hereby commanded to receive and safely keep the person or persons who shall be so committed, until they pay the same, or until discharged by order of the brigade board, or otherwise by due course of law; and you are to make return of this execution, with your doings therein unto me, within thirty days next coming; for which this shall be your sufficient warrant. Hereof fail not. Given under my hand and seal, the day of in the year of our Lord, eighteen hundred and

Justice of the Peace.

Surplus money.

13. *And be it enacted*, That if any money shall remain in the hands of any constable after making sale of the property of a delinquent, and paying the fines and costs of such delinquent, such money shall be paid by the constable to the said delinquent; but if he shall refuse to receive the same, then the said constable shall pay the said money to the paymaster of the battalion to which such delinquent belongs, to be by him accounted for in his settlement with the brigade board. And it shall be the duty of such constable, after having paid any such money into the hands of the battalion paymaster, immediately to certify the same to the judge-advocate or brigade board, and the fines and forfeitures imposed by this act on minors living with their parents and others having the proper care or charge of them, and those of apprentices, shall be paid by their respective parents, guardians, masters or mistresses, or levied of their respective goods and chattels.

Certificate.

14. *And be it enacted, That it shall be the duty of every battalion paymaster to make returns to the brigade board, of all such delinquent commissioned officers as may be returned to him by the orderly sergeant of the company; and the said battalion paymasters shall keep journals of all their proceedings, in the execution of the duties enjoined on them as battalion paymasters. They shall record in a book to be kept for that purpose, the amount of fines by them received, of whom, and in what manner received, whether by voluntary payment or of the constables, of the fines not collected or recovered, and the reason thereof, of moneys paid, to whom, and on whose order, and for what purpose, and shall lay the same, with their vouchers and receipts, before the brigade board for inspection and settlement.*

1815.

Italic, repealed and supplied by act of March 2, 1820.

15. *And be it enacted, That the brigade board shall appoint one reputable freeholder within their respective brigade, to act as brigade paymaster to the same, and one reputable freeholder within the bounds of each battalion, to act as battalion paymaster to the same, for the collection and payment of fines, which said brigade and battalion paymasters, before entering upon the duties of their office, shall severally give bond, with sufficient sureties, to be approved of by the commandant of the brigade, the brigade paymaster in the sum of two thousand dollars, the battalion paymaster in the sum of five hundred dollars, payable to the state of New-Jersey, with condition for the faithful performance of the duties of their respective offices, and shall repair to the clerk of the county in which they reside, and subscribe and take the following oath or affirmation :*

Paymasters, how appointed.

Bond.

I, *appointed paymaster of the brigade (or battalion, as the case may be) of militia, do swear (or affirm) that I will, to the utmost of my knowledge and ability, honestly and faithfully perform the duties of the office of paymaster of the said brigade (or battalion.) So help me God.*

Oath.

Which oath (or affirmation) the said clerk shall administer, and endorse on the said bond, and file the same in his office, to be prosecuted whenever the brigade board shall direct. The said clerk shall, on the back of the warrant of appointment, give a certificate, under his hand and the seal of the county, of said bond and oath (or affirmation) having been taken and filed, which shall be received as evidence of the authority of the said paymaster.

Certificate.

16. *And be it enacted, That the brigade paymaster shall receive and file all vouchers and returns, and keep proper and distinct accounts of the moneys arising from the fines and forfeitures in the several regiments and battalions in the brigade, which shall be paid and returned to him, and also shall receive and file all returns, orders, vouchers and receipts, for all moneys he may receive and pay out, conformably to the directions of this law, and submit his books of accounts, returns, orders, vouchers and receipts, to the inspection and examination of the brigade board, to whom he shall account from time to time for all moneys by him received, and produce orders for any disbursements he may have made. On receiving the list of fines imposed by the bri-*

Duty of brigade paymaster.

1815.

gade board on delinquent officers, he shall proceed to collect the same, and if any delinquent officer shall neglect or refuse to pay, for sixty days thereafter, the said paymaster shall put the said list into the hands of a justice of the peace of the county, having previously crossed the names of such as may have paid, and the said justice is hereby required to issue execution against the delinquents who have not paid, in the words and form of execution directed in the twelfth section of this act, substituting the words brigade paymaster, instead of battalion paymaster. And the constable into whose hands said execution may be placed, shall observe all the duties in executing such process, enjoined by this act, and be subject to the same penalties as are provided by law for neglect of duty.

Brigade board.

Meeting.

17. *And be it enacted*, That there shall be a brigade board, composed of the brigadier-general, brigade-major, and commandants of regiments, independent battalions and squadrons, of the respective brigades, and a majority of them shall be necessary to form a board; they shall meet annually on the third Monday in December, at such place as shall be agreed upon by a majority of the board, and their next meeting in each brigade shall be at the place to which the board of general and field officers of such brigade stand adjourned.

Duties of brigade board.

18. *And be it enacted*, That at any meeting of the brigade board, the officer of the first grade and seniority present shall preside; the said board shall have power to compel the attendance of its members, by imposing a fine, which shall not in any case exceed twenty dollars; it shall be their duty, and the said brigade board are hereby respectively empowered to make such alterations and arrangements of the regiments, battalions, squadrons, troops and companies, within their respective brigades, as may from time to time appear to them as necessary and expedient; to authorize the formation of such new uniform companies, and to attach them to such battalion or regiment as they may think proper; and whenever the brigade board of any brigade in this state, shall re-attach a company to any other regiment or battalion, the company so attached shall be considered the lowest in rank: they shall draw orders upon the brigade paymaster for all lawful and necessary expenses: they shall make said paymaster a reasonable allowance for his services, adjust, inspect and settle his accounts, determine what balance is in his hands: they shall remove said paymaster in case of embezzlement or neglect of duty, and appoint another in his place, which successor is hereby empowered and required to prosecute the said delinquent or defaulter, his executors or administrators, for any moneys remaining in his hands, belonging to the brigade, in any court where the same may be cognizable, with costs of suit: they shall settle with the battalion paymasters, determine the balances, which they shall severally pay forward to the brigade paymaster, to allow them a reasonable compensation for their services: they shall remove either of them in case of embezzlement or neglect of duty, or suspicion thereof, and make other appointments to fill the vacancies: they shall direct the brigade paymaster, who

1815.

is hereby, on such direction, required to prosecute such battalion paymaster, guilty or suspected to be guilty of embezzlement or neglect of duty as aforesaid, his executors or administrators, for all moneys so embezzled, in any court where the same may be cognizable, with costs of suit: they shall make a reasonable allowance to adjutants for extra services, and to persons employed by commandants of brigades, regiments, independent battalions and squadrons, to carry their orders: they shall make compensation to the brigade judge-advocate, or person acting in that capacity: they shall, on returns made to them by the brigade-major, or battalion paymaster, of any delinquent officers (where no satisfactory excuses are offered) assess such fines on each defaulter, as are directed by law: they shall preserve order at their several sittings, by imposing a fine not exceeding ten dollars, upon any person who shall interrupt or insult them, while engaged in the business of the brigade, which shall be collected by the brigade paymaster, in the same way as fines on delinquent officers, and return a list of the names of such delinquents, together with the name or names of any defaulting member or members of said board, with the amount of the fine or fines annexed, to the brigade paymaster: that the brigade board of each brigade are hereby authorized to erect, in some convenient place or places, a suitable covering or coverings, for the preservation of the piece or pieces of field artillery committed to their care, and pay the necessary disbursements, out of moneys arising from military fines and forfeitures accruing within their respective brigades.

19. *And be it enacted*, That there shall be a judge-advocate to each brigade, who shall be appointed by the brigade board, of which he shall be ex-officio clerk. It shall be his duty to attend every meeting of the board, and keep a record of all their proceedings.

Judge-advocate.

20. *And be it enacted*, That it shall be the duty of the adjutant-general to distribute all orders from the commander in chief of the state, to the several corps; to attend at public reviews, if required, when the commander in chief of the state shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline, established by this act; to furnish blank forms of different returns, that may be directed by the commander in chief, and to explain the principles on which they shall be made; to demand and receive from the several officers of the different corps throughout the state, returns of militia under their command, reporting the actual situation of their arms, accoutrements and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline; all which the several officers of the divisions, brigades, regiments, and battalions, are hereby required to make, in the manner herein directed, that the said adjutant-general may be duly furnished therewith, previous to the annual meeting of the legislature; from all which returns he shall make proper abstracts, and lay the same with a report of the general state of the militia, magazines

Duty of adjutant-general.

1815.

and military stores, and also of such improvements as he may think necessary to advance the discipline and benefit of the militia, before the commander in chief of the state, who is required to lay the same before the legislature. And the adjutant-general shall also annually, make a return of all the militia of the state, to the president of the United States. He shall keep a book, in which shall be recorded all orders, returns, names of commissioned officers throughout the state, and every proceeding relative to the details of the military force ordered by the commander in chief, upon requisitions of the president or congress of the United States, and in cases of invasion or other emergency. All certificates of election of officers, shall be transmitted to him to be entered on record, before commissioned by the commander in chief. He shall deliver over to his successor, all books and returns belonging to the office of adjutant-general. He shall lay his accounts before the legislature, at their annual sitting, in every year, and receive from them a reasonable allowance for his services.

Compensation

Duty of brigade inspector

See sec. 20, of
act 2d March,
1820.

Compensation

Penalty.

21. *And be it enacted*, That it shall be the duty of the brigade inspector, to attend the brigade, regimental and independent battalion meetings, of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements, to make returns annually to the adjutant-general, of the state of the militia of the brigade to which he belongs, reporting therein particularly the name of the reviewing officer, the actual situation of the arms, accoutrements and ammunition of the several corps, and every other thing which in his judgment may relate to their government, and the general advancement of good order and military discipline. The said brigade inspector shall be entitled to receive thirty dollars annually, for his services, and for extra duty an allowance, at the discretion of the brigade board, upon an examination of the accounts, and for refusing or neglecting the duties enjoined by this act, he shall be subject to the penalty of fifty dollars, to be recovered by the treasurer of the state, who shall also withhold his said salary of thirty dollars, until he shall have produced the acknowledgment of the adjutant-general, that he has received said return. In case of the absence of the brigade inspector, the commanding officer present at the inspection, shall appoint some person to perform the duties thereof.

Officers to report their acceptance.

Resignations.

Vacancies.

22. *And be it enacted*, That every captain, lieutenant or ensign, and cornet, who shall from time to time be chosen by the several companies or troops, shall report his acceptance of the office within ten days after having received notice thereof, to the major or commanding officer of the battalion, and in case such report is not made as aforesaid, the said office shall be deemed as vacant. And the resignation of every captain, lieutenant, ensign and cornet shall be delivered to the brigadier-general or commanding officer of the brigade in which the said company or troop is formed, and where vacancies shall happen in any company or troop, by the death, removal or resignation of a captain, lieutenant, ensign or cornet, it shall be lawful for the commanding officer of the

brigade, by warrant, under his hand and seal, directed to the major or commanding officer of the battalion or squadron to which such company or troop belongs, to hold an election within the limits of such company or troop, to supply the vacancies occasioned by the non-acceptance, resignation, removal, death or otherwise of any such officer, and thereupon the said major or commanding officer of the said battalion or squadron shall give ten days notice, by advertisement, in three of the most public places within the limits of such company, of an election to supply the place of the officer or officers of the company or troop which may be vacant; and the said company or troop, or such of them as may attend, shall proceed, by a majority of votes, to choose such officer or officers, residing within the bounds of the said company or troop, and the said major or commanding officer of the said battalion or squadron shall certify, under his hand and seal, annexed to, or endorsed on, the warrant aforesaid, the name and rank of each officer so chosen or elected, addressed to the commander in chief of the state, and shall transmit the same to the adjutant-general, who, after entering the names and rank of the persons so elected, in the books of his office, shall lay the same before the commander in chief, to be commissioned, and thereupon the adjutant-general shall transmit all commissions to the brigadier-general, or officer who issued the warrant of election. The sum of two dollars shall be paid by the battalion paymaster to the commandant of the battalion or squadron, for advertising and holding an election or elections. No candidate or any other person shall give any spirituous liquors or treat to any officers or privates, on any day of election of officers, under the penalty of twenty dollars, to be prosecuted for, and recovered by, the battalion paymaster, and by him paid to the brigade paymaster.

1815.

Election.

Notice.

Returns.

Commissions.

Compensation

Liquors not to be given.

Penalties.

23. *And be it enacted*, That if any commissioned officer shall remove out of the bounds of his proper division, brigade, regiment, battalion, squadron, troop or company, or shall be absent therefrom more than six months, his office shall be thereby vacated.

Removals.

24. *And be it enacted*, That the uniform to be worn by the several officers of the militia of this state, shall be conformable to the general orders heretofore, or that may hereafter be issued on that subject, and it shall be the duty of every officer, within three months after receiving his commission, to appear upon all training days, courts-martial and meeting of the brigade board, in full and complete uniform, agreeably to general orders, and also, either with a sword or hanger; and if any officer shall come upon parade for exercise, not being so equipped, he shall incur the same fine as is directed by this act for non-appearance, and also shall not be suffered to do duty on that day.

Uniform.

25. *And be it enacted*, That if any youth of the age of twelve years, and not exceeding the age of eighteen years, shall, with the consent and approbation of his parents, attach himself to any company of militia for the purpose of learning to beat the drum, play on the fife, or blow the trumpet or bugle, provided the num-

Musicians.

1815.

ber shall not exceed one person for the drum and one for the fife in each company, and one for the trumpet in each troop of horse, the father of every youth who shall serve as musician as aforesaid, shall be excused from every kind of military duty, so long as his son shall continue to perform the duties of a drummer, fifer, trumpeter or bugler in any militia company or troop, and be under the age of eighteen years.

Uniform companies.

26. *And be it enacted*, That it shall be lawful for the captains or commanding officers of the several companies of cavalry, artillery, light-infantry, grenadiers and riflemen, to enrol in their respective companies, from the several companies composing the brigade, regiment or battalion to which they may belong, and if such company be on the bounds of the brigade, then from the adjoining brigade, such men as may from time to time be necessary to complete their respective companies, and a certificate from the said captain or commanding officer shall exonerate the bearer from serving or paying any fine thereafter imposed on him by the officers of the company to which he formerly belonged, any law, usage or custom to the contrary notwithstanding: *Provided always*, That it shall not be lawful for the captain or commanding officer of any uniform company, to grant a certificate to any person prior to his appearing in uniform agreeably to law, under the penalty of ten dollars, to be recovered, when incurred, by action of debt, before any court having cognizance of the same, and the court shall pay the money, when collected, to the paymaster of the brigade in which the delinquent may reside.

Proviso.

Duty of majors.

27. *And be it enacted*, That the majors or commanding officers of battalions shall be charged with organizing the several companies under their respective commands, so far as where militia-men of any company district neglect or refuse to choose their company officers, the major or commanding officer to which such company belongs, shall, under his hand and seal, appoint a sergeant within the said company district, whose duty it shall be to take command of the said company and conduct it agreeably to this act, until proper officers are duly elected and qualified, and to constitute his company court, the said sergeant shall appoint three respectable enrolled persons from the list of said company, who shall choose one of their number to be president of said court; they shall take the oath or affirmation prescribed by the ninth section of this act, and in all things be governed by the same regulations as are directed for other company courts.

Toll and ferryage.

28. *And be it enacted*, That no officer or private shall, on the way to or from the place of any review, regimental, battalion or company training, of the regiment, battalion or company, to which he shall belong, pay more than one-third of the usual rate of ferryage, or be charged any toll for passing any toll-bridge or turnpike gate, and if any ferryman or keeper of any toll-bridge or turnpike gate shall refuse a passage, or enforce a demand contrary to the direction of this act, he shall, for each offence, forfeit and pay the sum of eight dollars, to be recovered by any person who will sue for the same, one half to the prosecutor and the other half to the paymaster, for the use of the battalion where

such demand or refusal is made, any law, usage or custom to the contrary notwithstanding. 1815.

29. *And be it enacted*, That no commissioned officer, non-commissioned officer or private, shall be arrested on any civil process, on any day appointed by law for exercise or training, nor shall any arms or accoutrements of a militia-man be levied on or sold, by virtue of any execution. Arrests.

30. *And be it enacted*, That if any suit shall be brought or commenced against any person for any thing done in pursuance of this act, the venue shall be laid in the county where the cause of action arose, and the defendant in such action may plead a general issue, and give this act and the special matter in evidence. Venus. Plea.

31. *And be it enacted*, That the commander in chief of this state, for the time being, may, in case of invasion or other emergency, when he shall judge it necessary, order out any proportion of the militia of this state, to march to any part thereof, and continue so long as he may think it necessary, not exceeding two months. Militia when to be ordered out.

32. *And be it enacted*, That it shall and may be lawful for any person, called to do a tour of duty, to find a substitute, who, if approved of by the captain or commanding officer of the company out of which such person is so called, or passed by the muster-master, may serve in the place of such person. Substitutes.

33. *And be it enacted*, That the brigade-inspector shall call to his assistance two respectable freeholders, above forty-five years of age, who shall appraise, on oath or affirmation, the horse of each person serving as a light-horseman, immediately before the time of going into actual service, and describe the age, size, color and marks of said horse, and enter the same in a book kept for that purpose, and in case such horse shall be killed, or be taken by the enemy, the owner of such horse, or his lawful representative, shall be paid the full value of said horse, according to the said appraisement, by an order to be drawn on the certificate of the inspector, by the brigadier-general or commanding officer of the brigade, on the treasurer of this state: provided such claim be made in one year after the loss so sustained. Appraisement of horses. Proviso.

34. *And be it enacted*, That the quarter-master who shall furnish rations or ammunition for detachments of militia which may be ordered into the service of this state, by the commander in chief, shall lay his account therefor, accompanied with the receipts of the officer commanding such detachment, that such ammunition and rations have been furnished, before the commanding officer of the regiment or independent battalion for his approbation; and if he shall approve and sign the same, the governor, or person administering the government, if he also approve thereof, shall issue his warrant on the treasurer, to be paid out of any money in the treasury not otherwise appropriated. Duty of quarter-master.

35. *And be it enacted*, That the commander in chief shall appoint a general court-martial for the trial of all officers above the Courts-martial.

1815. ber shall not exceed one person for the drum and one for t^h in each company, and one for the trumpet in each troop of the father of every youth who shall serve as musician a^s said, shall be excused from every kind of military duty, as his son shall continue to perform the duties of a d^r ficer, trumpeter or bugler in any militia company or t^h be under the age of eighteen years.

Uniform com-
panies.

26. *And be it enacted*, That it shall be lawful for or commanding officers of the several companies of tillery, light-infantry, grenadiers and riflemen, to c^o respective companies, from the several companies c^o brigade, regiment or battalion to which they may such company be on the bounds of the brigade, adjoining brigade, such men as may from time to sary to complete their respective companies, from the said captain or commanding officer sh^o bearer from serving or paying any fine thereafter by the officers of the company to which he t^h any law, usage or custom to the contrary not^h *vided always*, That it shall not be lawful for t^h manding officer of any uniform company, to any person prior to his appearing in unifor under the penalty of ten dollars, to be reco^o by action of debt, before any court havin^g same, and the court shall pay the money, paymaster of the brigade in which the de^o

Proviso.

Duty of ma-
jors.

27. *And be it enacted*, That the major^s of battalions shall be charged with companies under their respective com^o militia-men of any company district n^o their company officers, the major or co^o such company belongs, shall, under hi^o sergeant within the said company dis^o to take command of the said compa^o to this act, until proper officers are and to constitute his company court^o point three respectable enrolled per^o pany, who shall choose one of the said court; they shall take the oath the ninth section of this act, and in same regulations as are directed t^h

Toll and fer-
riage.

28. *And be it enacted*, That n^o way to or from the place of any company training, of the regio^o which he shall belong, pay more of ferriage, or be charged with turnpike gate^s and if or turnpi^o that t^h trary to t^h fei^o any person the c^o

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Regi-
ment.

1813.

rank of field officers; that the major-generals, each in his own division, shall appoint a general court-martial for the trial of all field officers; that the brigadier-generals, each in his own brigade, shall appoint a general court-martial for the trial of captains and all commissioned officers under that rank; and that the commanders of regiments and independent battalions, shall institute a regimental court-martial within their respective regiments and independent battalions, as often as it shall be found necessary; and that it shall be the duty of every officer who shall appoint a court-martial, as aforesaid, to approve or disapprove of the sentence or sentences of said courts-martial, by them appointed, or to mitigate the punishment or pardon the person convicted, except in such cases as are of a personal nature, in which case the sentence of the court-martial shall be conclusive. And any officer who shall be authorized to appoint a court-martial, is also authorized to appoint a judge-advocate pro tempore, and to appoint a judge-advocate pro tempore, who shall be authorized immediately.

That any officer to be tried by a court-martial, shall have been duly notified of the time and place appointed for the trial, and of the charges exhibited against him, and shall be present at the trial, or if he is to be suspended from the trial, he shall be notified of the same by an officer, for the trial of whom the court-martial shall neglect to appear, the court-martial shall be authorized to proceed in the trial, and the sentence shall be pronounced, and the charges he shall be sentenced to.

That all persons shall be held bound to attend the court-martial, court of sessions, or court of common pleas, to be administered by the court, and to give in the trial of such cases, the whole truth, and nothing but the truth, and to swear or affirm as are by law provided. And the court-martial, court of sessions, or court of common pleas, shall be authorized to summon such witnesses as they shall think proper, and for which the law shall be complied.

That every regimental court-martial shall be composed of five members, all commissioned officers, the president thereof shall not be under the rank of a captain; that general courts-martial shall consist of thirteen commissioned officers, not under the rank of captain; the senior officer shall be president, not less than two-thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted: that before the trial of any cause, the judge-advocate shall administer to the president and each of the members, the following oath or affirmation, to wit:

do swear (or affirm) that you will well and truly and determine, according to evidence, the cause now before you, between the state of New-Jersey and the persons (if more than one person) to be tried; and you further swear, that

you will receive a copy of the same. You shall be allowed to examine any account of any matter in which there is a claim for money. So long as you are

And the money shall be paid to you following the order of the court.

You shall be allowed to examine any account of any matter in which there is a claim for money. You shall be allowed to examine any account of any matter in which there is a claim for money. You shall be allowed to examine any account of any matter in which there is a claim for money.

39. And if you are a member of the court, you shall be allowed to examine any account of any matter in which there is a claim for money. You shall be allowed to examine any account of any matter in which there is a claim for money. You shall be allowed to examine any account of any matter in which there is a claim for money.

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rank of field officers; that the major-generals, each in his own division, shall appoint a general court-martial for the trial of all field officers; that the brigadier-generals, each in his own brigade, shall appoint a general court-martial for the trial of captains and all commissioned officers under that rank; and that the commandants of regiments and independent battalions, shall institute a regimental court-martial, within their respective regiments and independent battalions, as often as it shall be found necessary; and that it shall be the duty of every officer who shall appoint a court-martial as aforesaid, to approve or disapprove of the sentence or sentences of such courts-martial, by them appointed, or to mitigate the punishment or pardon the person convicted, excepting where the offence is of a personal nature, in which case the sentence of the court-martial shall be conclusive. And any officer, by this act authorized to appoint a court-martial, is also hereby authorized (in the absence of the brigade judge-advocate) to appoint a person to officiate as judge-advocate pro tempore, to attend any courts-martial ordered immediately.

Notice.

Arrest.

36. *And be it enacted*, That any officer to be tried by a court-martial shall have fifteen days notice of the time and place appointed for trial, and a copy of the charges exhibited against him, and shall be put under arrest, so far as to be suspended from the exercise of his office; and in case any officer, for the trial of whom a court-martial shall be appointed, shall neglect to appear and make defence, the court shall be authorized to proceed in his absence, and if found guilty of the charges he shall be sentenced accordingly.

Witnesses.

37. *And be it enacted*, That all persons shall be holden bound to appear and give evidence before any court-martial, court of inquiry or brigade board, on oath or affirmation, to be administered by said courts, that the evidence they shall give in the cause in hearing, shall be the truth, the whole truth, and nothing but the truth, under the same penalties as are by law provided for witnesses in other cases, when thereto summoned by the brigade judge-advocate, or by any justice of the peace, who is hereby authorized and enjoined, when called upon, to summon such witnesses in the county to which he shall belong, and for which no fee shall be required.

Organization.

38. *And be it enacted*, That every regimental court-martial shall be composed of five members, all commissioned officers, the president whereof shall not be under the rank of a captain; that general courts-martial shall consist of thirteen commissioned officers, not under the rank of captain; the senior officer shall be president, not less than two-thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted: that before the trial of any cause, the judge-advocate shall administer to the president and each of the members, the following oath or affirmation, to wit:

Oath of members.

You, do swear (or affirm) that you will well and truly try and determine, according to evidence, the cause now before you, between the state of New-Jersey and the persons (if more than one person) to be tried; and you further swear, that

you will not divulge the sentence of this court-martial until it shall be approved or disapproved of, and that you will not, on any account, at any time whatever, discover the vote or opinion of any member of the court, unless required to give evidence thereof as a witness by a court of justice, in a due course of law. So help you God.

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And the president shall administer to the judge-advocate, the following oath or affirmation, to wit:

You, do swear, (or affirm) that you will not, on any account, at any time whatever, divulge the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law, and that you will not disclose the sentence of this court-martial, until it shall have been approved or disapproved of, by the officer who appointed the same. So help you God.

Of judge-advocate.

39. *And be it enacted*, That if any commissioned officer, at any review, or any other occasion, when paraded in arms or on duty, shall misbehave or demean himself in an unofficer like manner, he shall for such offence be cashiered or punished by fine, at the discretion of a general court-martial, as the case may require, in any sum not exceeding fifty dollars; and if any non-commissioned officer or private, shall on any occasion of parading the company to which he belongs, appear drunk or disobey orders, or use any reproachful or abusive language to his officers, or any of them, or shall quarrel himself, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard by order of the commanding officer present, and until the company is dismissed, and shall be fined at the discretion of a regimental court-martial, in any sum not exceeding eight dollars.

Misbehaviour of officers.

Of men.

40. *And be it enacted*, That if the commanding officer of any regiment, battalion or squadron, shall neglect or refuse to give orders for assembling his regiment, battalion or squadron, at the time appointed by the commandant of the brigade to which he belongs, or in case of an invasion of the city or county to which such regiment, battalion or squadron belongs, he shall be cashiered and punished by fine, not exceeding one hundred dollars, at the discretion of a general court-martial, and if a commissioned officer of any company or troop, shall on any occasion, neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the discretion of the commanding officer of the regiment, battalion or squadron to which such company or troop belongs, he shall be cashiered or punished by fine, not exceeding one hundred dollars, at the discretion of a general court-martial; and a non-commissioned officer offending in such case, shall be fined at the discretion of a regimental court-martial, in any sum not exceeding thirty dollars.

Disobedience of officers.

41. *And be it enacted*, That if any captain or commanding officer of a company or troop, shall refuse or neglect to make out a list of the persons notified to perform any tour of duty, and send or convey the same to the commanding officer of the regiment, battalion or squadron, to which such company or troop may be-

Neglect of officers.

1815. long, for such neglect or refusal, he shall be cashiered, or fined, at the discretion of a general court-martial, in any sum not exceeding one hundred dollars.
- Desertion. 42. *And be it enacted*, That if any militia-man shall desert while he is on a tour of duty, he shall be fined in any sum not exceeding one hundred dollars, for every such offence, or may be imprisoned for any term not exceeding two months, at the discretion of a regimental court-martial; and if a non-commissioned officer he shall also be degraded and placed in the ranks.
- Penalty. •
- Loaded gun not to be brought on parade. 43. *And be it enacted*, That it shall not be lawful for any non-commissioned officer or private to come on parade with a loaded or charged musket, gun, rifle, fusee or pistol, nor to discharge any fire-arms within one mile of the place of parade, on any day that they shall be ordered out for improvement or inspection, without an order or permission from a commissioned officer, and if any non-commissioned officer or private shall so load or charge, or fire or discharge any fire-arms, without such order or permission, he shall forfeit one dollar for every offence, and the orderly sergeant of the company is hereby directed to read this section, immediately after calling the roll of the company, and the commissioned officers are hereby enjoined to cause the names of the persons who shall offend, to be returned to the regimental court-martial.
- Penalty.
- Time of being under military discipline. 44. *And be it enacted*, That the militia of this state shall be considered to be under military discipline, from the rising until the setting sun of the same day, that they shall be ordered out for improvement or inspection, and that no officer, non-commissioned officer or private, belonging to the same, during the time aforesaid, shall be subject to be arrested on any civil process.
- Exempt from arrest.
- Time of exercise. 45. *And be it enacted*, That the militia, on the days of exercise, may be detained under arms, on duty in the field, six hours: provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.
- Spirituos liquors prohibited. 46. *And be it enacted*, That any person who shall bring any kind of spirituous liquors to the place of exercise, or within one mile thereof, for the purpose of retailing, shall forfeit such liquors for the use of the poor belonging to the city or township where such exercise is had, and the commanding officer of the regiment, battalion, squadron or company, is charged with the execution of this article.
- Penalty.
- Rules of discipline. 47. *And be it enacted*, That the rules of discipline for the militia of this state, shall be the same at all times, as those established by congress for disciplining the regular troops of the United States.
- Publication of such rules. 48. *And be it enacted*, That the commander in chief be, and he is hereby authorized, to procure a sufficient number of copies of a system embracing the first elements and most essential movements of field artillery; also a sufficient number of copies of a manual for the exercise of cavalry, infantry and riflemen, and distribute the same to such officers of the cavalry, artillery, rifle-

men and infantry, as in his opinion the service may require. And he is hereby authorized to draw on the treasurer of the state for moneys to defray the necessary expenses; and the said treasurer is hereby authorized and required to pay such draft, out of any moneys in the treasury arising from militia fines, not otherwise appropriated.

1815.

49. *And be it enacted*, That when any officer of the general staff shall be tried by courts-martial, the expense shall be paid by the treasurer of the state, out of any militia fines in the treasury not otherwise appropriated. That when any officer having commanded in any brigade, above the grade of major, shall be tried by court-martial, the expense shall be paid by the paymaster of the brigade to which the delinquent belongs; and that when the commanding officer of any battalion or squadron, or of a grade inferior, or private, shall be tried by court-martial, the expense shall be paid by the battalion paymaster in whose bounds the delinquent may reside. That every officer who shall attend on courts-martial, shall be entitled to receive the sum of one dollar and fifty cents each, for every day they shall respectively attend, and all persons attending before said courts-martial as witnesses, shall be entitled to receive fifty cents per day: *Provided*, That no more than four witnesses on the part of the state, and four on the part of the offender, shall be entitled to pay. All which sums shall be paid as aforesaid, on certificates signed by the judge-advocate, or the person acting as such, at any courts-martial which may be held.

Expenses of courts-martial.

Pay.

50. *And be it enacted*, That if any by-stander shall interrupt, molest or insult, by abusive words or behaviour, any officer or soldier, while on duty at any training or muster, he shall be immediately put under guard, and kept at the discretion of the commandant of the regiment, battalion, squadron, company or corps, until the setting of the sun of the same day on which such offence shall be committed, and if any by-stander shall be guilty of any like conduct before a court-martial, he shall be fined in any sum not exceeding twenty dollars, with costs of prosecution, to be recovered before any justice of the peace, by the battalion paymaster, who shall sue for, and pay the same when recovered, to the brigade paymaster.

Penalty on by-standers.

51. *And be it enacted*, That all fines imposed by any courts-martial, shall be certified and returned by the judge-advocate, to the brigade board, who shall direct their brigade paymaster to collect the same, in the manner directed for the collection of fines imposed on delinquent officers, in the sixteenth section of this act.

Fines.

52. *And be it enacted*, That the surplus money, after paying the expenses authorized by law, that may remain in the hands of the brigade paymaster, on the settlement of his accounts, shall be appropriated to the purchase of arms, accoutrements, colors, instruments of music, and to teach music, and the preservation of arms, at the discretion of the brigade board; the said arms and other military implements always subject to the order of the commander in chief, in case of invasion, insurrection or actual war;

Surplus money.

1815.

and the judge-advocate shall immediately after the annual meeting of the said board, make out and transmit to the adjutant-general, a statement of the disbursements, the number of arms and other military implements, and the said adjutant-general shall lay the same before the legislature, as soon thereafter as may be.

Rifle corps
authorized.

Organisation.

Italic, repealed
and supplied
by act of
March 2, 1890.

53. *And be it enacted*, That in addition to the military corps now authorized to be formed in the several counties of this state, companies of riflemen may be formed. Each company of riflemen shall consist of one captain, three lieutenants, four sergeants, four corporals, one drummer and fifer (or bugler) and not more than one hundred nor less than fifty privates; that such rifle companies as are already formed, or may be hereafter formed, shall be attached to the battalion in whose bounds a majority of said company shall reside, and be subject to the marching orders of their superior commanders, rendezvous at the regimental and battalion trainings, and be inspected by the proper officers of said brigade, *subject to be trained by their commanding officer or officers, agreeably to the manual and field evolutions peculiar to riflemen.*

Fees.

54. *And be it enacted*, That the following fees shall be allowed for services required by this act, viz.: to the orderly sergeant for advertising the names of exempts and delinquents, two cents for each name, and fifty cents for a copy thereof to the company court; to each member of said court for holding the same, one dollar; to the president thereof for returning a list of exempts and delinquents who have been fined, two cents for each name; to the major or commanding officer for advertising the battalion court of appeal, fifty cents; and to each of the members for holding the court, one dollar; to the president of the battalion court, for the names required to be furnished to the county collector, battalion paymaster, and brigade paymaster, two cents on each name; all which fees shall be paid by the battalion paymaster, on a certificate signed by the president of the company court, for the members of said court and orderly sergeant, and by the president of the battalion court for the members thereof.

Arms.

55. *And be it enacted*, That all arms hereafter purchased for the use of the militia of this state, shall be of the same calibre as the arms used in the service of the United States.

Substitutes.

56. *And be it enacted*, That those militia-men who may have substitutes in actual service, shall not on that account be excused from doing duty on parade days authorized by law, in the companies to which they may respectively belong.

Volunteers.

57. *And be it enacted*, That it shall and may be lawful for the commander in chief, or commandant of brigade, at any time when any part of the militia may be called into actual service, to receive any one or more of the uniformed companies from any of the brigades in this state, as volunteers; and when any of said companies shall have volunteered their services, and shall have served their tour, they shall be exempted from any draft, or farther service, until their respective battalion, regiment or brigade shall have performed the like service; and their brigade shall re-

ceive credit for the number so volunteering their services, in the requisition made by them.

1815.

58. *And be it enacted*, That it shall and may be lawful for the commander in chief, at any time when he may deem necessary, for the protection of the maritime frontier of this state, to cause to be organized, any company or companies, in any of the brigades bordering on the sea, to be prepared for actual service on any sudden emergency, and when so organized, to furnish the commanding officer of such company or detachment with ordnance, arms, and sufficient quantity of ammunition, for immediate defence, which commanding officer or officers shall from time to time, obey all such orders as he shall receive from the commander in chief, through any of his superior officers, for the performance of his duties in the defence of the state; and every such commanding officer receiving any of the arms and implements of war, as aforesaid, shall be answerable at the expiration of his tour of service, for the safe deposit or delivery of the same, at such place as shall be directed, and agreeably to such receipt as he may and shall be required to give for the same, when delivered to him, or satisfactorily account for the same.

Defence of the frontier.

59. *And be it enacted*, That it shall and may be lawful, on application of the commander of any uniform corps, to the commander in chief for that purpose, to furnish such corps with any arms, the property of the state, when in his opinion they can be spared without manifest injury to the service of this state or the United States, the said company officers giving bond for the keeping the same in good order and repair, and the returning the same when required, or an equivalent.

Arms.

60. *And be it enacted*, That uniform companies shall be attached to the battalion within the bounds of which a majority of such companies may reside.

Uniform companies.

61, 62, 63. Repealed by act, 2d March, 1820.

64. *And be it enacted*, That when a part of the militia shall be called into actual service, the captain or commanding officer shall assemble his company, or such of them as will assemble, and divide them into as many classes as there shall be men required of him, and all those that wish to determine the tour of duty, by draft, shall be classed together, as near as may be, and the commanding officer shall select, by lot, from each of the said classes, one man, unless they shall volunteer their service; the commanding officer shall fine each and every class who shall not determine the tour of duty, by draft or voluntary enrolment, the sum of fifty dollars, and if the said class shall neglect or refuse to furnish an able bodied man, capable of performing military duty, within two days after such fine shall have been levied, the said commanding officer is required forthwith to return the said fine to a justice of the peace, apportioning the sum equally on all persons composing the classes, together with the name of each delinquent, who is hereby required to issue execution for such sum, with costs, against such delinquent, which moneys shall be appropriated, by the said commanding officer, to hiring a substi-

Classing for actual service.

1816. tute or substitutes, as the case may be. All surplus moneys that shall remain in the hands of the captain or commanding officer of the company, after paying for a substitute, or after he shall not have been able to procure one for any of the classes, shall, after retaining one dollar for every fifty dollars he shall have received, pay the same to the battalion paymasters of their respective battalions, and on neglect or refusal so to do shall be prosecuted by the said paymaster, for the amount thereof, with costs. *Provided always*, That no militia-man who shall perform his tour of duty in actual service, either in person or by substitute, or paid a fine in lieu thereof, in pursuance of this or any former act, shall be classed or made liable to a fine as aforesaid, until the remainder of the company or troop to which he may belong shall have performed a tour, except in cases of actual invasion or sudden emergency.

Proviso.

Publication of this act.

65. *And be it enacted*, That two thousand five hundred copies of this act shall be printed under the direction of the commander in chief, for the expense of which he is hereby authorized to draw on the treasurer of this state, and distributed by the adjutant-general to the several officers of the militia, and it shall be the duty of any officer having such copy or copies, on his going out of office, to deliver, or in case of his death, his executors or administrators shall deliver, under the penalty of five dollars, to the successor in office, who shall prosecute for the same of the person so going out of office, or of the executors and administrators of the person so dying, the aforesaid copy or copies.

Repeal.

66. *And be it enacted*, That all former acts for regulating, conducting and disciplining the militia of this state, shall be, and the same are hereby repealed: *Provided*, That the collection of fines and forfeitures under the former act, or its supplements incurred, shall not in anywise be affected by this repeal, nor the settlement of the accounts of the several brigades.

See supplement, passed 2d March, 1820.

P.A.M. 113.

AN ACT supplementary to the act, entitled "An act to regulate the mode of fishing in Hackensack river, in the county of Bergen," passed the second day of November, seventeen hundred and eighty-six.

Passed the 20th of January, 1816.

WHEREAS it has become a common practice to set and fix nets and other devices in the bay of Newark, to the great injury of people owning fisheries on the rivers Hackensack and Passaic, and to the injury of the inhabitants in general, adjacent to the said rivers; and whereas the act to which this is a supplement does not extend its restrictions and penalties to the said bay, for relief in the premises—

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the publication of this act, all and every person or persons whatsoever, who shall fasten, fix or set any net or nets, or other device or devices, in or across the said Newark

bay, so as to obstruct or hinder the fish from going up and down the same, shall be subject and liable to the same prosecutions, costs, penalties, forfeitures and punishments that they would be for offending against the law to which this is a supplement: *Provided always*, That nothing in this act contained shall extend to prevent any person or persons from setting of that kind of nets called hoop-nets, in said bay, in such manner as not to obstruct or interfere with the channel or natural course and current of the said rivers respectively.

1816.

AN ACT relative to fishing in the several creeks in the county of **PAM. 114.**
Salem.

Passed the 5th of February, 1816.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if any person or persons shall drive, beat, splash or make a noise in Salem, otherwise called Penn's-neck, creek, Mill-creek, being a branch thereof, and Alloways-creek, in the county of Salem, for the purpose or with the intention of molesting, disturbing or impeding shad or other fish, in their natural course, either up or down any of the said creeks aforesaid, or shall affix, fasten or set any net or nets, or other device or devices, that may tend to obstruct or hinder the fish from going up or down the same, he, she or they so offending, shall forfeit and pay for each and every offence, the sum of forty dollars, to be recovered by action of debt, with cost of suit, in any court of record having cognizance thereof, by any person or persons that will sue for the same: *Provided always*, That such prosecution shall be commenced within one year after the said offence shall have been committed: *And provided also*, That nothing in this act contained shall extend to prevent any person or persons from drawing or sweeping with seines or nets, or fishing with hoop-nets, as heretofore.

AN ACT supplementary to the act, entitled "An act for the more easy partition of lands held by coparceners, joint-tenants and tenants in common," and the act, entitled "An act to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of this state. **PAM. 11.**

See ante 89.

Passed the 7th of February, 1816.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That whenever application shall be made to coparceners, joint-tenants, tenants in common, guardians of minors or trustees, for the partition of any tract or tracts of land or real estate, within this state, in the manner prescribed in the act, entitled "An act for the more easy partition of lands held by coparceners, joint-tenants and tenants in common," passed the eleventh day of November, seventeen hundred and eighty-nine, or in the manner prescribed

1816.

If lands cannot
be divided
without great
prejudice,

sale may be
ordered.

Report to be
made.

Conveyance
to be directed.

Rights of oth-
ers not to be
affected.

in the act, entitled "An act to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of this state," passed the sixteenth day of December, seventeen hundred and eighty-four, and the commissioners or persons appointed, pursuant to the said acts or either of them, shall be of opinion that the tract or tracts of land or real estate in question are so circumstanced, that a partition thereof cannot be made without great prejudice to the owners of the same, they shall so report, and if it shall appear by satisfactory proof, that the said tract or tracts of land or real estate cannot be partitioned among the owners and proprietors without great prejudices to their interest, that then and in such case, the justice or justices of the supreme court, or such three judges of the court of common pleas, or the orphans' court, as the case may be, to whom the application for the partition of such tract or tracts of land, or real estate shall have been made, may order the said commissioners or persons appointed to make partition as aforesaid, to sell such tract or tracts of land or real estate, at public auction, to the highest bidder, giving at least sixty days notice of the time and place of such sale, by advertisements put up in five of the most public places in the county wherein the said land or real estate may lie, and also in one public newspaper circulating in the same county.

2. *And be it enacted*, That in cases wherein a sale may be ordered by any justice or justices of the supreme court, the said commissioners shall, after making such sale, report the same to the next stated term of the supreme court; when a sale may be ordered by any three judges of the inferior court of common pleas, the said commissioners shall, after making such sale, report the same to the next stated term of the inferior court of common pleas of the county; and when a sale may be ordered by the orphans' court, the commissioners or persons appointed shall, after making such sale, report the same to the next stated term of said court.

3. *And be it enacted*, That if the court to which the report of the sale of such land or real estate shall be made as aforesaid, shall approve of such sale, it shall confirm the same as valid and effectual in law, and shall, by rule of said court, direct the said commissioners to execute good and sufficient conveyances in the law to the purchaser or purchasers, for the tract or tracts of land or real estate so sold, which said conveyances, duly executed as aforesaid, shall operate as an effectual bar, both in law and equity, against the said owners and proprietors and against all and every person or persons claiming by, from or under them or either of them.

4. *Provided always, and be it enacted*, That no sale or conveyance of any tract or tracts of land or real estate, made by virtue of this act, shall impair or in any ways affect the rights and interest of any person or persons therein, other than the persons being or claiming to be coparceners, joint-tenants or tenants in common in the same.

1816.

5. *And be it enacted*, That the moneys arising from every sale as aforesaid, shall be ordered by the said court to be paid by the said commissioners to the parties interested in the said lands or real estate so sold, their guardians or legal representatives, in proportion to their respective rights in the same, deducting from their respective shares the costs and charges which may be allowed and ordered to be retained out of the same, and if any of the said parties shall be absent from this state without such legal representative, the proportion of the money due to every such party shall be put out at interest on sufficient security of real property, or invested in public stock of the United States, by order and under the direction and control of said court, for the benefit of such party.

Disposal of
moneys.

6. *And be it enacted*, That in addition to the fees which may be allowed in virtue of the acts to which this is a supplement, there shall be allowed, in all proceedings by virtue of this act, for every order for the sale of lands, to the justice or judges or court making the same, one dollar; to the court for the confirmation of sale, and ordering conveyance, one dollar; to the clerk of the court, for entering and filing report of commissioners, fifty cents, and for entering order of confirmation thereof and rule for conveyance, fifty cents; and to the commissioners making any sale, such reasonable allowance for their services as the said court may judge proper, over and above the necessary expenses attending such sale, to be taxed by said court.

Fees.

7. *And be it enacted*, That it shall be the duty of the said courts, respectively, to require of the guardian of any person under the age of twenty-one years, entitled to a proportion of the moneys arising from any sale as aforesaid, such security, by bond, to the governor of this state, as the said court shall judge to be sufficient, for the benefit of each minor, conditioned for the faithful discharge of the trust committed to such guardian.

Guardian to
give security.

8. *And be it enacted*, That whenever any widow may be entitled to dower in any tract or tracts of land or real estate, ordered to be sold as aforesaid, and such widow shall before or at the time of making such sale, by writing under her hand and seal, signify her assent and determination to relinquish her dower in the same, so that the said tract or tracts of land, or real estate, may be sold free of the incumbrance of her said dower, that then and in such case, one-third part of the moneys arising from such sale shall be put out at interest, on sufficient security of real property, or invested in public stock of the United States, by order and under the direction and control of said court, for the benefit of such widow during her natural life, and the interest thereon shall be paid to her as the same may become due, as a compensation for and in lieu of her said dower, and at her decease the said principal sum shall be distributed among the parties interested, in the manner herein before directed.

Dower.

1816.

AN ACT relative to toll and chain bridges.

PAM. 16.

Passed the 8th of February, 1816.

Not to drive
faster than a
walk.See act, Feb.
21, 1820.

Penalty.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That from and after the passing of this act, it shall not be lawful for any person or persons to drive any kind of carriage, waggon, cart, sled or sleigh, or ride any horse or mule, over any of the toll-bridges in this state, at a faster gait than a walk, and every person wilfully so offending, shall forfeit and pay to the proprietor or proprietors of such bridge or bridges the sum of one dollar, to be recovered by action of debt, with costs of suit, in any court of competent jurisdiction.

No faster than
a walk.

Penalty.

Proviso.

Proviso.

2. *And be it enacted,* That it shall not be lawful for any person or persons to drive any kind of carriage, waggon, cart, sled or sleigh, or ride any horse or mule over any free chain bridge in this state, at a faster gait than a walk, and every person so offending, shall forfeit and pay the sum of one dollar, to be recovered by action of debt, with costs of suit, in any court of competent jurisdiction, by any person who will sue for the same; one moiety to the prosecutor, the other to the collector of the county, for the benefit of the same: *Provided always,* That this act shall not be construed to prevent any physician or midwife, or person or persons going for such physician or midwife, or returning from said errand, riding express by order of any public officer of this state or of the United States, or pursuing a fugitive from justice, runaway servant or apprentice, from driving or riding over any toll or chain bridge at a faster gait than a walk: *Provided also,* That the said proprietor or proprietors of such toll-bridge, and the board of chosen freeholders of such county where any free chain bridge now is or may be erected, shall cause to be fixed and always kept up at each end of the bridge aforesaid, in some conspicuous place, a board, on which shall be painted in large letters, "one dollar fine for travelling over this bridge at a faster gait than a walk;" and on neglect of such notice, the aforesaid fine shall not be incurred.

Penalty.

3. *And be it enacted,* That if any person or persons shall maliciously break down or deface such board or boards as aforesaid, he, she or they so offending, shall forfeit and pay to the proprietor or proprietors, if on a toll-bridge, and to the county collector, if on a free chain bridge, twenty dollars, to be recovered by action of debt, with costs of suit, by any person who will sue for the same.

PAM. 21.

AN ACT directing the investment of certain moneys belonging to this state.

Passed the 9th of February, 1816.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the treasurer of this state, be, and he is hereby authorized and

and directed to cause to be invested in the public six per cent. stock of the United States, in the name and for the use of this state, the sum of fifteen thousand dollars, in part of the moneys now in the treasury, arising from the payment of the principal and interest of the funded debt of the United States, due to this state, and from the dividends on the shares belonging to this state, in the capital stock of the Trenton Banking Company.

1816.

2. *And be it enacted*, That it shall and may be the duty of the treasurer, and he is hereby authorized and directed, at the end of every year, to cause to be invested in stock of the United States, as aforesaid, the amount of moneys which may be received for the principal and interest of the funded debt aforesaid, and of the stock hereby directed to be purchased, and the dividends on the stock in the Trenton Banking Company, belonging to this state, as the same may be paid him from time to time, in the name and for the use of this state.

AN ACT to incorporate the medical society of New-Jersey.

PAM. 29.

Passed the 15th of February, 1816.

WHEREAS the act heretofore passed for the incorporation of the medical society of New-Jersey, has expired; and whereas the said society, by a committee, have in their petition presented to the legislature of this state, requested that the said society may be created a body corporate and politic, under such modifications and provisions as may be deemed useful and expedient; and it being manifestly for the public good, that the prayer of their petition should be granted; THEREFORE—

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That Nicholas Belleville, Enoch Wilson and John Vancleve, together with all such physicians and surgeons, as now are members of the medical society of the state of New-Jersey, and their successors, be and they are hereby constituted and declared to be a body politic and corporate in law, by the style and name of "The Medical Society of the state of New-Jersey," by which name they shall be in law, capable of suing and being sued, pleading and being impleaded, answering and being answered, of defending and being defended, in all courts and places, and in all matters and causes whatsoever, and shall and may have, and use a common seal, and may change and alter the same at their pleasure; that they be and are hereby authorized to fix the times and places of their respective meetings, and may purchase and hold any estate, real and personal, for the use of said society; provided the annual interest or income of the same shall not exceed the sum of three thousand dollars.

Name.

2. *And be it enacted*, That the members of the said society, or as many of them as can conveniently attend, shall hold their first meeting at New-Brunswick, on the first Tuesday of May

1817.

Authority of
the trustees.

6. *And be it enacted*, That the persons constituted trustees as aforesaid, shall have authority to sue for and recover the aforesaid debts and property, by the name of the trustees of such corporation, describing it by its corporate name, and shall be suable by the same name, or in their own names and individual capacities, for the debts owing by such corporation, at the time of its dissolution, and shall be jointly and severally responsible for such debts, to the amount of the moneys and property of such corporation, at the time of its dissolution, and which shall come to their hands or possession.

7. *And be it enacted*, That nothing herein contained, shall be construed to extend to, or in any way affect the inhabitants of townships, or to repeal or make void any of the provisions of the act of the legislature of this state, passed the twenty-first of February, one thousand seven hundred and ninety-eight.

FAM. 25.

AN ACT to provide for the opening and clearing out of the tail races and natural streams of grist-mills and other water-works.

Passed the 12th of February, 1817.

See ante 128.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the provisions of the act, entitled "An act to enable the owners of swamp or meadow ground to drain the same, and to repeal a law heretofore made for that purpose," passed the twenty-fourth of November, one thousand seven hundred and ninety-two, shall be extended to the clearing out, to their accustomed and natural depth, the tail races and natural water-courses of all grist-mills or other water-works now erected, or hereafter to be erected in this state, under the provisions and restrictions contained in the said act.

FAM. 26.

AN ACT to create a fund for the support of free schools.

Passed the 12th of February, 1817.

See ante 600.

Fund for the
support of free
schools.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the public six per cent. stock of the United States, belonging to this state, purchased and hereafter to be purchased in pursuance of an act, entitled "An act directing the investment of certain moneys belonging to this state," passed the ninth of February, eighteen hundred and sixteen, all dividends which may hereafter be received on the shares of this state in the capital stock of the Cumberland Bank, and on the shares of the state in "The Newark Turnpike Company," all moneys to be received on the sale of the house and lot belonging to this state in the city of Jersey, and one tenth part of all moneys hereafter to be raised by tax for the use of the state, shall be, and the same are hereby set apart and appropriated for the purpose of creating a fund for the support of free schools in this state.

2. *And be it enacted*, That it shall be the duty of the treasurer, on the receipt of any moneys which may come to his hands as aforesaid, to cause the same forthwith to be invested in the public stock of the United States, in the name of this state, and in the same manner to cause the interest arising on such stock, from time to time, to be invested as aforesaid, for the benefit of the said fund.

1817-18.

Duty of the treasurer.

3. *And be it enacted*, That it shall be the duty of the treasurer of this state, and he is hereby directed to cause a separate account to be kept of the fund hereby to be created, and the increase of the same, and to render an account thereof to the legislature, at their annual meeting.

See act, February 12, 1818; and act, February 18, 1819.

AN ACT respecting the seal of the court of chancery, and of the secretary of state. PAM. 31.

Passed the 13th of February, 1817.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That there shall be a seal of the court of chancery, provided by the governor, at the expense of the state, to be by him devised, and the description of the same, in writing, deposited and recorded in the office of the secretary of this state, shall there remain as a public record thereof, and all commissions, writs, process and other proceedings of the said court, and which, according to the practice of the said court, ought to be under seal, shall be valid and effectual when sealed with the said seal, and that the said seal shall be deposited with the clerk of the said court of chancery.

Seal of the court of chancery.

2. *And be it enacted*, That there shall be a seal for the secretary of state, provided in manner aforesaid, and devised by the said secretary, and a description of the same, in writing, shall be deposited in the office of the said secretary, to remain as a public record thereof, which seal shall be used by the said secretary in sealing such instruments of writing, as he is required by law to seal.

Of the secretary of state.

AN ACT for the more equal representation of the county of Monmouth, in the general assembly of this state. PAM. 11.

Passed the 26th of January, 1818.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That on the second Tuesday of October next, and on the second Tuesday of October annually thereafter, the people of the county of Monmouth, entitled to vote, shall proceed to elect four persons to represent them in the general assembly of this state, any law, usage or custom to the contrary notwithstanding.

1816-7.

ratify and confirm the proceedings of the medical society of New-Jersey, passed the first day of December, eighteen hundred and seven, be and the same are hereby repealed.

See supplement, 10th February, 1818.

PAM. 3.
See ante 600.

A SUPPLEMENT to the act, entitled "An act directing the investment of certain moneys belonging to this state."

Passed the 29th of October, 1816.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall be the duty of the treasurer of this state, and he is hereby authorized and directed, to cause to be transferred to the books of the loan-office of the United States, in this state, all stock of the United States heretofore purchased, or hereafter to be purchased, for the use of this state.

PAM. 4.

AN ACT to authorize aliens to purchase and hold real estate, in this state.

Passed the 22d of January, 1817.

Alien may
purchase
land, &c.

May not be
elected to of-
fice, or vote
at elections.

To extend to
purchases
heretofore
made.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any alien, not being the subject of any state or power, which shall be at the time of such purchase, at war with the United States, to purchase lands, tenements, and hereditaments, within this state, and to have and to hold the same to him and her, and his or her heirs and assigns for ever, as fully to all intents and purposes, as any natural born citizen of the United States may or can do: Provided always, That nothing in this act shall be so construed, as to entitle any alien to be elected into any office of trust or profit in this state, or to vote at any town-meeting, or election of members of the legislative council and general assembly, sheriff and coroners within this state, or for representatives in congress, or electors of the president and vice-president of the United States.*

2. *And be it enacted, That all purchases of lands, tenements, and hereditaments within this state, which may have been made by aliens before the passing of this act, shall be deemed and held as good and effectual, to all intents and purposes as if the same had been made after the passing thereof.*

PAM. 17.

AN ACT authorizing the courts of common pleas to award a tales de circumstantibus.

Passed the 23d of January, 1817.

May award
tales.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if in any of the inferior courts of common pleas in this state,

by reason of challenges, or default of jurors or otherwise, a sufficient number cannot be had of the jurors on the original panel, to try any issue or cause, then the said court is hereby authorized and required to award a tales de circumstantibus of persons present at the said court, and qualified according to law, to be joined to the other jurors, till the number of twelve be sworn; which talesmen shall be liable to the same challenges as the principal jurors, and thereupon the said court is hereby authorized to proceed to the trial of said issue or cause with such jury, which shall be as valid and effectual, as if the said issue or cause had been tried by twelve of the jurors returned on the original panel, and if any talesman, when present, be called, and shall not appear, or if he appear, shall wilfully withdraw from the court; then it shall be lawful for the said court to set a reasonable fine upon him, to be levied and made by distress and sale in the manner prescribed by the act, entitled "An act for the recovery of fines imposed upon defaulting jurors."

1817.

A SUPPLEMENT to the act concerning wills.

PAM. 5.
See ante 223.

Passed the 24th of January, 1817.

BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That where any lands, tenements or hereditaments have been or shall be given or devised by any last will or testament, executed in due form of law, to the executors therein named, or any of them, to be sold, or have been or shall be thereby ordered or directed to be sold by the executors therein named, or any of them, and one or more of such executors shall die, or shall have died, before the death of the testator, and the surviving executors, or any of them, shall have accepted, and taken upon him, her or them, the execution of such last will and testament, then all such bargains and sales of any such lands, tenements or hereditaments so willed to be sold, made by the executor or executors who may survive such testator, and shall accept, or shall have heretofore accepted, and taken upon him, her or them, the execution of such last will and testament, shall be as good and effectual in the law as if all the executors named in the said will and testament had joined in such sale.

AN ACT to ensure the faithful and impartial execution of office.

PAM. 6.

Passed the 27th of January, 1817.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That it shall not be lawful for the governor of this state, now chosen, or hereafter to be chosen, to accept of any office or appointment, under the government of the United States or any department or office of the same; and in case the governor of this state,

The governor not to accept any appointment under the United States,

1817.

except for the
defence of the
state.

Justices of the
supreme court
not to accept
certain ap-
pointments.

Certain ap-
pointments
excepted.

now being, or hereafter appointed, shall accept any office under the government of the United States, or any department or office thereof, such acceptance shall be deemed an abdication and resignation of his office as governor, and all the authorities, powers and duties appertaining to the office of governor, as aforesaid, shall immediately devolve upon the vice-president of the council of this state, and be by him exercised as if the case had happened provided for in the eighth section of the constitution of this state: *Provided nevertheless*, That nothing hereby enacted shall be construed to prevent the said governor, for the time being, performing and exercising all the powers and duties required, or which may be required of him under the constitution or laws of the United States, or to prevent the governor aforesaid from accepting any appointment under the president of the United States, the object of which shall be the defence of this state and of the adjoining posts.

2. *And be it enacted*, That it shall not be lawful for any justice of the supreme court of this state, hereafter to accept of any office or appointment under the government of the United States, or any department or office thereof, or any office or appointment in any body corporate or politic within this state, and in case any of the said justices of the supreme court, now or hereafter being, shall accept of any such office or appointment, such acceptance shall be deemed an abdication and resignation of said office of justice of the supreme court of this state, and his salary shall immediately cease: *Provided nevertheless*, That nothing in this act shall prevent any of the justices of the supreme court from accepting and exercising any office or appointment in any body corporate for the promotion of ecclesiastical, religious or literary purposes.

PAM. 13.
See ante 126.

AN ACT further supplementary to an act, entitled "An act to incorporate a part of the township of Trenton, in the county of Hunterdon.

Passed the 3d of January, 1817.

Court consti-
tuted.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the mayor, recorder and aldermen of the city of Trenton, for the time being, shall severally and respectively have all the powers and authorities of justices of the peace of the state of New-Jersey; and that the said mayor, recorder and aldermen, or any three of them, of whom the mayor or recorder to be one, shall constitute a court of general quarter-sessions of the peace, in and for the said city of Trenton, with all the powers, authority and jurisdiction within the said city of Trenton, except the granting of tavern licenses, and excepting also the hearing and determining of appeals in pauper cases, with which the several courts of general quarter-sessions of the peace of the several counties of this state are or may be vested. That the said court shall be distinguished and known by and under the style and title of "The

1817.

Court of General Quarter-Sessions of the Peace of the city of Trenton," and be a court of record, and hold four stated sessions within the said city in each year, to begin, one of them on the second Tuesday of the month of April; one other on the second Tuesday in the month of July; one other on the fourth Tuesday in the month of September; and one other on the second Tuesday in the month of January; the first sessions to be holden on the second Tuesday in the month of April next, with power to adjourn from day to day, and to hold special sessions when to the said mayor, recorder and aldermen, it shall appear necessary: that the clerk of the said city of Trenton, for the time being, shall be the clerk of the said court of general quarter-sessions of the said city, and shall perform the like duties, be entitled to receive the same fees and emoluments, and be subject to the same penalties and forfeitures as the clerks of the courts of general quarter-sessions of the peace of the several counties of this state: that the said court shall have a seal with such device as to the said court shall seem proper; and all writs and precepts issuing thereout shall be under the said seal, and tested in the name of the mayor or recorder, and be directed to the marshal or one of the constables of the said city, who are hereby authorized and required to serve and execute the same; and who shall perform the same duties, be entitled to the same fees and emoluments, and be subject to the same penalties and forfeitures as the sheriff and constables of the several counties of this state.

Clerk's duties and fees.

Marshal's duties and fees.

2. *And be it enacted*, That the said court of general quarter-sessions of the peace of the said city, shall have power to compel, in causes pending before the said court, the attendance of witnesses from any part of the state, by process of subpoena ad testificandum.

3. *And be it enacted*, That the annual town-meeting of the freeholders and inhabitants of the said city for the purpose mentioned in the act to which this a supplement, shall in future be held on the third Monday in April, instead of the time prescribed in the said act.

Annual town-meeting.

4. *And be it enacted*, That the powers, privileges and authorities granted by this act to the said mayor, recorder and aldermen of the city of Trenton, shall continue and be held by them during the will and pleasure of the legislature of this state, and nothing in this act shall be so construed as to prevent the repealing the same, and revoking and annulling the powers, privileges and authorities hereby granted.

Powers held during the pleasure of the Legislature.

5. *And be it enacted*, That this act shall be deemed and taken to be a public act, and as such shall be taken notice of by all persons and courts of justice whatsoever within this state.

Public act.

1817.

AN ACT directing the descent of real estates.

PAM. 8.

Passed the 20th of January, 1817.

Act of 1780,
Pat. 43.

To descend
equally with-
out regard to
sex.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That when any person shall die seized of any lands, tenements, or hereditaments, in his or her own right in fee-simple, without devising the same in due form of law, leaving two or more lawful children, such lands, tenements or hereditaments shall descend to, and be equally inherited, by all the lawful children of such person so seized, as tenants in common, and in equal parts, without regard to sex: *Provided always,* That if any child of the person so dying seized, shall have died before his said ancestor, leaving lawful issue, the share or part of the said lands, tenements or hereditaments, which such child so dying would have been entitled to, under and by virtue of this act, if such child had survived the person so dying seized, shall descend to and be inherited by such issue, in the manner and in equal parts as before mentioned. And the same law of inheritance and descent shall be observed in case of the death of the grand children, and other descendants, to the remotest degree: *And provided also,* That if any such ancestor shall, in his life-time, have given, or advanced any part of his or her lands, tenements or hereditaments, to any of his or her issue, such issue shall not be entitled to any part or share of such ancestor's real estate, descending under or by virtue of this act, unless the real estate so given or advanced, shall not be equal in value to the respective shares of the other issue in the same degree of affinity, as the case may be, and then no more than will be sufficient to make such share equal in value to the respective shares of the other issue, in the same degree of consanguinity to the said deceased ancestor.

Posthumous
children.

2. *And be it enacted,* That all posthumous children shall, in all cases whatsoever, inherit in like manner as if they were born in the life-time of their respective fathers.

How brothers
and sisters are
to inherit,

3. *And be it enacted,* That when any person shall die seized of any lands, tenements or hereditaments, in his or her own right in fee-simple, without devising the same in due form of law, and without leaving lawful issue, leaving a brother or sister, or leaving a brother or brothers, and a sister or sisters of the whole blood, the inheritance shall descend to such brother or sister, or to such brother or brothers, and sister or sisters, as the case may be, as tenants in common, in equal parts. And in case any such brother or sister who would have inherited by this law, if living, shall die before the said person so seized, and leave a lawful child or children, such child or children, surviving the said person so seized, shall inherit, if a child, solely, and if children, as tenants in common, in equal parts, such share as would have descended to his, her or their father or mother, if such father or mother had survived the person so seized. And the same law of inheritance and descent shall be observed in case of the death of any child of such brother or sister before the person so seized, leaving a child or children.

and their chil-
dren.

4. *And be it enacted*, That when any person shall die seized of any lands, tenements or hereditaments as aforesaid, without devising the same in due form of law, and without leaving lawful issue, and without leaving a brother or sister of the whole blood, or any lawful issue of any such brother or sister, leaving a father, then the inheritance shall go to the father of the said person so seized, in fee-simple, unless the said inheritance came to the person so seized from the part of his or her mother by descent, devise or gift, in which case it shall descend as if such person so seized had survived his or her father.

1817.

When to the
father.

5. *And be it enacted*, That when any person shall die seized of any lands, tenements or hereditaments, as aforesaid, without devising the same in due form of law, and without leaving lawful issue, and without leaving a brother or sister of the whole blood, or any lawful issue of any such brother or sister, and without leaving a father capable of inheriting the said lands, tenements or hereditaments, by this act, and shall leave a brother or sister of the half blood, or a brother or brothers and a sister or sisters of the half blood, the inheritance shall descend to such brother or sister of the half blood, or to such brother or brothers and sister or sisters of the half blood, as the case may be, as tenants in common, in equal parts; and in case any such brother or sister of the half blood, who would have inherited by this act, if living, shall die before the person so seized, and leave a lawful child or children, such child or children surviving the said person so seized, shall inherit, if a child, solely, and if children, as tenants in common, in equal parts, such share as would have descended to his, her or their father or mother, if such father or mother had survived the said person so seized. And the same law of inheritance and descent shall be observed in case of the death of any child of such brother or sister of the half blood, before the person so seized, leaving a child or children: *Provided always*, That in case the said lands, tenements or hereditaments, came to the person so dying seized, by descent, devise or gift of some one of his or her ancestors, all those who are not of the blood of such ancestor, shall be excluded from such inheritance.

When to the
half blood.

6. *And be it enacted*, That when any person shall die seized of any lands, tenements or hereditaments, as aforesaid, without devising the same in due form of law, and without lawful issue, and without leaving a brother or sister of the whole blood, or half blood, or the issue of any such brother or sister, and without leaving a father capable of inheriting, by this act, the said lands, tenements or hereditaments, and shall leave several persons all of equal degree of consanguinity to the person so seized, the said lands, tenements or hereditaments, shall then descend and go to the said several persons of equal degree of consanguinity to the person so seized, as tenants in common, in equal parts, however remote from the person so seized, the common degree of consanguinity may be; unless where such inheritance came to the said person so seized by descent, devise or gift, of some one of his or her ancestors, in which case all those who are not of the blood of such ancestor, shall be excluded from such inheritance,

When to persons of equal
degree of consanguinity.

1817. if there be any person or persons in being, of the blood of such ancestors, capable of inheriting the said lands, tenements or hereditaments.

Not to bar
certain rights.

7. *Provided always, and be it enacted*, That nothing herein contained shall be construed or taken to bar or injure the rights or estate of a husband, as a tenant by the curtesy, or a widow's right of dower, or to make void, or in any ways affect any marriage settlement.

Repealing section.

8. *And be it enacted*, That the act, entitled "An act to alter the descent of real estates," passed the twenty-fourth day of May, Anno Domini, one thousand seven hundred and eighty, and so much of the fourteenth section of the act, entitled "An act to ascertain the powers and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court and to establish an orphans' court in the several counties of this state," passed the sixteenth day of December, one thousand seven hundred and eighty-four, as directs that real estates descending by inheritance to persons, male and female, shall be inherited by and divided between them in such proportions, as that each male heir shall have two shares, each of which shares shall be equal to the share of each female heir; and the act entitled "A supplement to an act, entitled an act to alter the law directing the descent of real estates," passed February fifth, one thousand eight hundred and sixteen; and also the act, entitled "An act directing the descent of real estate to persons of the half blood," passed February fifteenth, one thousand eight hundred and sixteen, be, and the same are hereby repealed.

See act, 13th June, 1820.

JAN. 18.

AN ACT for the relief of creditors against corporations.

Passed the 31st of January, 1817.

How process
to be served.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That when any personal action shall be commenced against a corporation in any of the courts of law of this state, the first process to be made use of may be a summons, a copy whereof shall be served on the president, or other head officer of the said corporation, or left at his dwelling-house or usual place of abode, at least six entire days before its return; and in case the president or other head officer of the said corporation cannot be found in this state, to be served with process as aforesaid, and has no dwelling-house or usual place of abode, within this state, then a copy of the said summons shall be served on the clerk or secretary of the said corporation, if any there be, and if no clerk or secretary, then on one of the directors of the corporation, or left at his dwelling-house or usual place of abode, six entire days before its return.

2. *And be it enacted*, That when the sheriff or other officer

shall return such summons, "served" or "summoned," the defendants shall be considered as appearing in court, and may be proceeded against accordingly.

1817.

3. *And be it enacted,* That in case the sheriff or other officer shall return such summons "not served," or "not summoned," and an affidavit shall be made to the satisfaction of the court, that process cannot be served as mentioned in the first section of this act, then the court shall make an order directing the defendants to cause their appearance to be entered to the said action, on or before the first day of the next term of the said court, a copy of which order shall, within twenty days, be inserted in one of the public newspapers printed in this state, and in one of the public newspapers printed in the state of New-York, or in the state of Pennsylvania, as the court may direct, for at least six weeks, and a copy of the same order shall also be posted up within the time aforesaid, in three public places in this state, as shall be ordered by the said court, for at least six weeks, and if the defendants shall not appear within the time limited by such order, or within such further time as the court shall appoint, then on proof made of the publication of such order, in manner aforesaid, the court being satisfied of the truth thereof, shall order the clerk to enter an appearance for the defendants, and thereupon the action shall be further proceeded in, as if the said defendants had caused their appearance to be entered to the said action.

How to proceed in case process not served.

4. *And be it enacted,* That it shall not be lawful for any corporation, against whom any order shall be made for publication, as aforesaid, after the entry of the said order in the minutes of the court, to grant, bargain, sell, alien, or convey any lands, tenements, or real estate in this state, (in case the said summons issued out of the supreme court,) or in the county in which the said summons shall have been issued, (in case the said summons issued out of one of the inferior courts of common pleas in this state,) of which such corporation shall be seized or entitled to at the time of making such order, until the plaintiff in the action shall be satisfied his legal demand, or until judgment shall be entered for the defendants, and the said action shall be and remain a lien on such lands, tenements, and real estate, from the time of entering the said order for publication in the minutes of the court, and the said lands, tenements, and real estate, shall and may be sold on execution, as if no conveyance had been made by the said corporation.

Not to convey real property after order for appearance entered.

5. *And be it enacted,* That upon the dissolution of any corporation already erected, or which may hereafter be erected by any law of this state, the president and directors, or the managers of the affairs of the said corporation at the time of its dissolution, by whatever name they may be known in law, shall be trustees of such corporation, with full power to settle the affairs, collect the outstanding debts, and divide the moneys and other property among the stockholders, after paying the debts due and owing by such corporation, at the time of its dissolution, as far as such moneys and property shall enable them.

Upon dissolution, who shall be trustees.

1817.

Authority of
the trustees.

6. *And be it enacted*, That the persons constituted trustees as aforesaid, shall have authority to sue for and recover the aforesaid debts and property, by the name of the trustees of such corporation, describing it by its corporate name, and shall be suable by the same name, or in their own names and individual capacities, for the debts owing by such corporation, at the time of its dissolution, and shall be jointly and severally responsible for such debts, to the amount of the moneys and property of such corporation, at the time of its dissolution, and which shall come to their hands or possession.

7. *And be it enacted*, That nothing herein contained, shall be construed to extend to, or in any way affect the inhabitants of townships, or to repeal or make void any of the provisions of the act of the legislature of this state, passed the twenty-first of February, one thousand seven hundred and ninety-eight.

FAM. 25.

AN ACT to provide for the opening and clearing out of the tail races and natural streams of grist-mills and other water-works.

Passed the 12th of February, 1817.

See ante 128.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the provisions of the act, entitled "An act to enable the owners of swamp or meadow ground to drain the same, and to repeal a law heretofore made for that purpose," passed the twenty-fourth of November, one thousand seven hundred and ninety-two, shall be extended to the clearing out, to their accustomed and natural depth, the tail races and natural water-courses of all grist-mills or other water-works now erected, or hereafter to be erected in this state, under the provisions and restrictions contained in the said act.

FAM. 26.

AN ACT to create a fund for the support of free schools.

Passed the 12th of February, 1817.

See ante 600.

Fund for the
support of free
schools.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the public six per cent. stock of the United States, belonging to this state, purchased and hereafter to be purchased in pursuance of an act, entitled "An act directing the investment of certain moneys belonging to this state," passed the ninth of February, eighteen hundred and sixteen, all dividends which may hereafter be received on the shares of this state in the capital stock of the Cumberland Bank, and on the shares of the state in "The Newark Turnpike Company," all moneys to be received on the sale of the house and lot belonging to this state in the city of Jersey, and one tenth part of all moneys hereafter to be raised by tax for the use of the state, shall be, and the same are hereby set apart and appropriated for the purpose of creating a fund for the support of free schools in this state.

2. *And be it enacted*, That it shall be the duty of the treasurer, on the receipt of any moneys which may come to his hands as aforesaid, to cause the same forthwith to be invested in the public stock of the United States, in the name of this state, and in the same manner to cause the interest arising on such stock, from time to time, to be invested as aforesaid, for the benefit of the said fund.

1817-18.

Duty of the treasurer.

3. *And be it enacted*, That it shall be the duty of the treasurer of this state, and he is hereby directed to cause a separate account to be kept of the fund hereby to be created, and the increase of the same, and to render an account thereof to the legislature, at their annual meeting.

See act, February 12, 1818; and act, February 18, 1819.

AN ACT respecting the seal of the court of chancery, and of the secretary of state. PAM. 31.

Passed the 13th of February, 1817.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That there shall be a seal of the court of chancery, provided by the governor, at the expense of the state, to be by him devised, and the description of the same, in writing, deposited and recorded in the office of the secretary of this state, shall there remain as a public record thereof, and all commissions, writs, process and other proceedings of the said court, and which, according to the practice of the said court, ought to be under seal, shall be valid and effectual when sealed with the said seal, and that the said seal shall be deposited with the clerk of the said court of chancery.

Seal of the court of chancery.

2. *And be it enacted*, That there shall be a seal for the secretary of state, provided in manner aforesaid, and devised by the said secretary, and a description of the same, in writing, shall be deposited in the office of the said secretary, to remain as a public record thereof, which seal shall be used by the said secretary in sealing such instruments of writing, as he is required by law to seal.

Of the secretary of state.

AN ACT for the more equal representation of the county of Monmouth, in the general assembly of this state. PAM. 11.

Passed the 26th of January, 1818.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That on the second Tuesday of October next, and on the second Tuesday of October annually thereafter, the people of the county of Monmouth, entitled to vote, shall proceed to elect four persons to represent them in the general assembly of this state, any law, usage or custom to the contrary notwithstanding.

1818.

PAM. 117.

A SUPPLEMENT to the act, entitled "An act to preserve and support the jurisdiction of this state."

Passed the 30th of January, 1818.

See ante 533.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall be the duty of every citizen of this state, to cause to be apprehended and taken before a justice of the peace, to be dealt with according to law, all offenders against the act, entitled "An act to preserve and support the jurisdiction of this state," passed the third day of December, in the year of our Lord, one thousand eight hundred and seven; and if any person shall cause to be taken and apprehended any such offender, so that he shall be brought to proper punishment, such person shall be entitled to receive the sum of one hundred dollars from the treasurer of state.

2. *And be it enacted*, That all proceedings, judgments and decrees, had, passed or rendered in pursuance of any writ or process, executed within the state of New-Jersey, contrary to the provisions of the before mentioned act, shall be deemed and adjudged null and void to all intents and purposes.

PAM. 96.
See ante 506.

A SUPPLEMENT to the act, entitled "An act to alter and amend the charter of the city of New-Brunswick," passed at Trenton, February twenty-third, one thousand eight hundred and one.

Passed the 7th of February, 1818.

Fines may be imposed, and manner of recovery.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the mayor, recorder, aldermen and common council of the city of New-Brunswick, shall and may make, limit, impose and tax reasonable fines and amercements against all and upon all persons who shall offend against the laws, ordinances and regulations of the said mayor, recorder, aldermen and common council of the city of New-Brunswick, and the said mayor, recorder, or either of the said aldermen, shall and may have and take cognizance before them of all or any action or actions to be brought for a breach of any of the said laws, ordinances or regulations, and all and every such fines and amercements to take, demand, require and levy of the goods and chattels of such offender or offenders, together with costs of suit, by warrant, issued under the hand and seal of the said mayor, recorder or either of the said aldermen, directed to the marshal of the said city of New-Brunswick, who is hereby required and authorized to execute the same, and for want of such sufficient goods and chattels whereon to levy, that the said mayor, recorder, or either of the said aldermen are hereby authorized to issue their warrant, under their hand and seal, directed as aforesaid to take the body of such offender or offenders and commit him, her or them to

the common gaol of the county of Middlesex, there to remain until the said fines, taxes, penalties or amercements are paid, together with costs of suit, or he, she or they be discharged by due course of law; which fines and amercements shall be paid to the city treasurer, for the use and benefit of the inhabitants of said city of New-Brunswick: *Provided always*, That no such fine or amercement shall exceed the sum of thirty dollars: *And provided also*, That every person who may think himself or herself aggrieved by the decision of the said mayor, recorder, or either of the said aldermen, may appeal to the common council, who are hereby constituted and appointed, for that purpose, a court of appellate jurisdiction.

1818.

2. *And be it enacted*, That the said mayor, recorder, aldermen and common council of the said city of New-Brunswick, or a majority of them, shall and may have the power to regulate, pave and gravel any street or streets within the limits of the said corporation, already laid out and opened, or that shall hereafter be laid out and opened, as a public highway, according to the laws of this state, and to make, pass, seal with the common seal of said city, and publish such by-laws and ordinances, not repugnant to the laws of this state, for the purpose of regulating and paving such streets, as they may deem necessary and proper, and the same to put in execution or revoke, alter and make anew.

Power as to regulating and paving the streets.

3. *And be it enacted*, That where lots adjoining any of the streets in the said city of New-Brunswick, are owned by non-residents, it shall be the duty of the clerk of the common council of said city, in all cases where a by-law or ordinance shall be made for the paving the same, to give to the owner or owners of such lot or lots, forty days notice, in writing, to have the same paved or otherwise regulated, and if the said owner or owners shall, for the space of thirty days thereafter, neglect or refuse to comply with such by-law or ordinance, then the corporation of said city may order such street paved, or otherwise regulated, and the expenses thereof to be assessed upon the said lot or lots.

Non-resident owners of lots to have notice as to paving, &c.

AN ACT concerning roads.

Passed the 9th of February, 1818.

PAM. 26.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every public road or highway which shall hereafter be laid out, shall not be more than four, nor less than two, rods wide; and that every private road which shall hereafter be laid out, shall not be more than thirty feet in width, but may be less, at the discretion of the surveyors of the highways.

Width of roads.

2. *And be it enacted*, That when ten or more persons, being freeholders, shall think a public road necessary, or any public road which hath been or shall be laid out unnecessary, or any alteration in such road necessary, in any part of the county in which they reside, it shall be lawful for the said persons to make

Manner of application.

1818.

What survey-
ors to be ap-
pointed.

Notice, &c.

Roads be-
tween two
counties.

Private roads.

application, in writing, to the inferior court of common pleas of the said county, in open court, having given previous notice, for at least ten days, of such intended application, and also of the day on which such application is intended to be made, by advertisements under their hands, and set up at three of the most public places in the township in which the said road is proposed to be laid out, vacated or altered, and if there be more townships than one through which the said road may run, by advertisements, to be set up at three of the most public places in each township; and the said court, when applied to as aforesaid, on due proof being made that the advertisements have been set up according to law, on which the judgment of the court shall be final and conclusive, are hereby authorized and required to appoint six of the surveyors of the highways of the said county, ever having regard to the appointment of the surveyors of the highways of those townships where the said road shall be so applied for to be laid out, vacated or altered: *Provided*, That no surveyor shall be appointed through whose land the road may run, or who for any other reason which the court in their discretion shall deem sufficient, think ought not to be appointed; and the said surveyors shall meet at such time and place as the said court shall direct, a copy of which appointment shall be served by the said applicants, or any one of them, on each of the said surveyors, at least six days prior to the time of their meeting, and two of the said applicants shall, at the least, twelve days prior to the said time, sign and set up advertisements at three of the most public places in the said township or townships, setting forth the time and place of the meeting of the surveyors, agreeably to the directions of the court, and designating the points or places from and to which the said road is proposed to be laid out, vacated or altered.

3. *And be it enacted*, That when the aforesaid number of freeholders shall think a public road necessary, or any public road unnecessary, or any alteration in such road necessary, on any part of the line between two counties, or part in one county and part in another, they shall make application, in writing, to the supreme court, having first advertised such intended application, as also the day on which such application is intended to be made, for at least three weeks, at four of the most public places in each of the said counties nearest the place where such road is to be laid out, vacated or altered, and the supreme court, on such application, shall appoint three of the surveyors of the highways in each of the said counties, having a regard to the appointment of the surveyors of the highways of those townships where the said road shall be so applied for to be laid out, vacated or altered, subject to the restrictions imposed by the second section of this act, who shall meet at such time and place as the said court shall direct, and the said applicants and surveyors shall thereupon proceed in the manner prescribed in the second section of this act.

4. *And be it enacted*, That if any person shall think a private road necessary to or from his or her land, mill, market, public landing or public road, or shall think it necessary to have a private road vacated or altered, he or she shall make application, in

writing, to the inferior court of common pleas of the county, or to the supreme court, as the case may require, having given notice of his or her intention, at least ten days, and the court shall thereupon appoint six of the surveyors of the highways, as before directed, and the applicant and the surveyors shall be guided in all things as in the manner before prescribed, except that the signature of the applicant to the advertisements, and to the notice to the surveyors, shall be deemed sufficient.

1818.

5. *And be it enacted*, That the said six surveyors of the highways, appointed by the supreme court, or any of the inferior courts of common pleas in this state, when met as aforesaid, or a majority of them so met, on due proof being made to them that the advertisements of their meeting have been set up according to law, on which the said surveyors shall decide, and their decision be final and conclusive, shall view the premises, and may, if they shall think it necessary, lay out, vacate or alter the said public or private road, and lay the same as may appear to them to be most for the public and private convenience, having a regard to the best ground for a road, and the shortest distance, in such a manner as to do the least injury to private property, and shall cause the road so laid out or altered, to be marked, at proper distances in the line of the same, and make return thereof with a map or draught of the same, with the courses and distances, and reference to the most remarkable places, and the improvements through which it may pass, with the time when the overseers of the highways shall open the same, if a public road, for public use, or if a private road, when the applicants may open the same; which return the said surveyors, or a majority of them as aforesaid, shall date, sign and deliver to the applicant, or in case of a public road to some of the applicants, who shall deliver or transmit it to the clerk of the court of common pleas of the said county,* or in case of a road running on the line between two counties, or part in one county and part in another, to the clerk of the supreme court, who is hereby required to record the said return, together with the map or draught thereof, in a book to be kept for that purpose, and every road so laid out or altered and recorded as aforesaid, shall be a lawful highway or private road from the time appointed for the opening of the same, and if any road be vacated, return thereof shall be made, signed, delivered, transmitted and recorded as aforesaid.

The surveyors
when met,
how to pro-
ceed.

Return to be
recorded.

6. *And be it enacted*, That the clerk of any court of common pleas, or of the supreme court, shall not record the return of the surveyors until the expiration of fifteen days after he shall have received the same, so that any person being aggrieved thereby, may, within that time, enter a caveat with the said clerk against recording the said return, which caveat, so entered, shall operate as a supersedeas to further proceedings until the next court.

Time of re-
cording and
caveat.

7. *And be it enacted*, That when any person or persons shall think him, her, or themselves injured or aggrieved by any road which shall hereafter be laid out, vacated or altered by the said

* To be delivered in fifteen days: see supplement 26th of January, 1820.

1818.

Proceedings
on a caveat
and freehold-
ers appointed.

Notice, &c.

How the free-
holders are to
proceed.

surveyors, having entered a caveat as aforesaid, he, she, or they, or their legal representatives, may make application, in writing, to the court of common pleas succeeding, and the said court shall not set aside the proceedings of the surveyors for illegality or irregularity, but shall thereupon, during the term to which the said application is made, appoint six of the chosen freeholders of the county in which the said road shall have been so laid out, vacated or altered, designating the time and place of the meeting of the said freeholders, always having regard to the appointment of the chosen freeholders of the township or townships where the road shall have been laid out, vacated or altered: *Provided*, That no freeholder be appointed through whose land the road may run, or who for any other reason which the court, in their discretion shall deem sufficient, think ought not to be appointed; a copy of which appointment shall be served by the applicant or applicants, on the said freeholders, in the same way and manner, and the mode of giving public notice by advertisements, in all respects shall be the same as is directed by the second section of this act, in respect both to the applicants and to the surveyors of the highways; and the said chosen freeholders, having taken an oath or affirmation to act faithfully and impartially, shall proceed to view the said road, so laid out, vacated or altered, and if they or a majority of them shall believe such laying out, vacation or alteration, or any part thereof, to be necessary and useful, they shall certify the same to the said court, the term next succeeding that in which they were appointed, and the court shall thereupon cause the same to be recorded in the book kept for that purpose in the office of the clerk of the county as aforesaid; which certificate and proceedings of the freeholders shall be binding and conclusive in all cases, and shall not be subject to an appeal or certiorari, or to be set aside for lack of form, and no application shall be made touching such road so laid out, vacated or altered, under the term of one year after the recording of the same; but if the said freeholders shall believe such laying out, vacation or alteration to be unnecessary or injurious, they shall certify the same to the court aforesaid, and the proceedings of the surveyors shall be made null and void, and the same shall not again be applied for under the term of one year; but if no caveat shall have been entered, or the person or persons entering the same shall not proceed in the manner prescribed in this section, or the said freeholders or a majority of them shall neglect to certify that the same is unnecessary, or if the said freeholders should be equally divided, the proceedings of the surveyors shall be deemed valid and effectual, and the clerk as aforesaid shall, by order from the court, record the same, and every road so laid out or altered and recorded as aforesaid, shall be a lawful highway from the time appointed for the opening of the same.

In Cape-May,
a justice of the
peace may be
appointed to
view instead
of chosen
freeholders.

8. *And be it enacted*, That whenever it shall so happen, that application shall be made to the inferior court of common pleas of the county of Cape-May, for the appointment of chosen freeholders of said county, to view any road laid out, altered or vacated by surveyors of the highways, and it shall appear to the said

court that the road so laid out, altered or vacated, shall run through the lands of any or either of the chosen freeholders, or that for any other reason which the court shall deem sufficient, that such chosen freeholder or freeholders ought not to be appointed on such view; that then and in such case it shall and may be lawful for the said court to appoint one or more justices of the peace of said county, who shall be free from the objections aforesaid, in the place or stead of such chosen freeholder or freeholders, who may have been deemed by the said court improper to be appointed on such view; and that the proceedings of such justice or justices, in conjunction with the chosen freeholders so as aforesaid to be appointed, shall be good and valid to all intents and purposes, any thing in this act contained to the contrary notwithstanding.

1818.

9. *And be it enacted*, That when any person or persons shall think him, her, or themselves injured or aggrieved by any road which shall hereafter be laid out, vacated or altered by the said surveyors, on any line between two counties, or part in one county and part in another, having entered a caveat as aforesaid, with the clerk of the supreme court, he, she or they, or their legal representatives, may make application in writing to the said supreme court succeeding, and the said court shall thereupon, during the term to which the said application is made, appoint three of the chosen freeholders in each of the said counties, designating the time and place of the meeting of the said freeholders, always having regard to the appointment of the freeholders of the township or townships where the road shall have been laid out, vacated or altered, subject to the same provisions and restrictions as in the seventh section; a copy of which appointment shall be served by the applicant or applicants, on the said freeholders, in the same way and manner, and the mode of giving public notice by advertisements in all respects, shall be the same as is directed by the second section of this act, in respect both to the applicants and to the surveyors of the highways; and the said chosen freeholders having previously taken an oath or affirmation, to act faithfully and impartially, shall proceed to view the said road so laid out, vacated or altered, and if they or a majority of them shall believe such laying out, vacation or alteration, or any part thereof, to be necessary and useful, they shall certify the same to the supreme court the term next succeeding that in which they were appointed, and the supreme court shall thereupon cause the same to be recorded in a book kept for that purpose, in the office of the clerk of the said court, which certificate and proceedings of the freeholders shall be binding and conclusive in all cases, and shall not be subject to be set aside for lack of form, and no application shall be made touching such road so laid out, vacated or altered, under the term of one year after the recording of the same; but if the said freeholders shall believe such laying out, vacation or alteration to be unnecessary or injurious, they shall certify the same to the supreme court aforesaid, and the proceedings of the surveyors shall be made null and void, and the same shall not again be applied for under

In what cases the supreme court to appoint freeholders to view.

In what manner they are to proceed.

1818.

the term of one year; but if no caveat shall have been entered, or the person or persons entering the same shall not proceed in the manner prescribed in this section, or the said freeholders or a majority of them shall neglect to certify that the same is unnecessary, or if the said freeholders should be equally divided, the proceedings of the surveyors shall be deemed valid and effectual, and the clerk as aforesaid, shall, by order from the court, record the same, and every road so laid out, or altered and recorded as aforesaid, shall be a lawful road or highway, from the time appointed for the opening of the same.

Penalty for
neglect of du-
ty.

10. *And be it enacted*, That if any surveyor of the highways, or chosen freeholder, who shall have due notice, or any clerk having due notice, shall refuse or neglect to perform any duty prescribed by this act, he shall, unless he assign good reasons for such refusal or neglect, forfeit sixteen dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same, in any court where the same is cognizable, to be paid to the county collector for the use of the county.

Quorum, what
number.

11. *And be it enacted*, That if any number not less than four of the said six surveyors or freeholders, shall attend at the time and place appointed by the court, they shall be a quorum to execute the business for which they convened, and be competent to lay out, vacate or alter the said road, as the case may require: *Provided*, That the signature of two of the surveyors or freeholders, in each of the said counties, where there are more counties than one, shall be necessary to render the said return valid or effectual; and if any number of the six surveyors or freeholders, shall convene as aforesaid, they may, if a majority of the applicants attending consent, adjourn to a future day, giving the parties then present verbal, and the absent surveyor or surveyors, or the absent freeholder or freeholders, written notice of the time to which they have adjourned; and if any number of the said surveyors or freeholders, sufficient to constitute a quorum, shall convene pursuant to adjournment, they shall proceed to perform the service and duty required of them, in the manner herein before prescribed.

Private roads,
how to be
worked.

12. *And be it enacted*, That every private road which shall be laid out or altered by virtue of this act, shall be cleared, worked, repaired and maintained, by the applicant or applicants, and such other person or persons as commonly make use of the same, or in case of neglect it shall be lawful for any other person or persons who have occasion to use the said road, to clear, work and maintain the same: *And further*, That it shall be lawful for the owner of any land, over which a private road may pass, to hang swinging gates in the said road, and if any person shall stake, shore, or leave open, or cut, break or pull down, or destroy any gate, he shall for every offence forfeit two dollars, to be recovered by action of debt, with costs, by any person who shall prosecute for the same, and shall also pay the owner of the soil or his tenant, all damages which he may have sustained thereby, to be appraised by three neighboring freeholders, or a majority of them,

which damages so assessed, shall be recovered by action of debt, with costs.

1818.

13. *And be it enacted*, That if any by-road heretofore used as such by the inhabitants of this state, although not laid out agreeably to law, shall be shut up, or rendered impassable, whereby the said inhabitants may be put to immediate inconvenience, or difficulty, then any person so aggrieved, may apply in writing, to three of the chosen freeholders of the county nearest to the said by-road, to lay out the said road, and the said freeholders are hereby authorized to lay out the same, which shall remain as a private road until it be vacated or altered, as in the manner directed in the foregoing section, in respect to the obtaining a private road.

By-roads, how-
to be laid out.

14. *And be it enacted*, That the township committee, who shall hereafter be chosen, agreeably to law, in the respective townships of this state, or a majority of such committee, are hereby authorized and directed to assign and appoint, in writing, to the overseers of the highways respectively, their several limits and divisions of the highways within such township, for opening, clearing out, working, amendment and repair; and the said overseers are hereby commanded to observe and conform themselves to such assignment: *Provided*, That in case the township committee of any township, shall neglect or refuse to assign and set off the divisions and limits of the highways, to the overseers of the highways, then it shall be the duty of the said overseer or overseers of the highways, to observe and conform themselves to such assignments as have at any time heretofore been made in the said township.

Township
committee
to appoint
overseers
their several
divisions.

15. *And be it enacted*, That it shall be the duty of the said overseers to hire laborers, and also horses, oxen, waggons, ploughs, carts and other implements, to open, clear out, make, work, amend, repair, and keep in good order, the highways within their respective limits and divisions, to make causeways, and to erect such bridges as can be built by common laborers, and to procure whatever materials they shall deem necessary to effect the purposes specified in this section.

Duty of over-
seers.

16. *And be it enacted*, That the moneys necessary for defraying the costs, charges and expenses of opening, clearing out, making, working, amending, repairing, and keeping in good order the highways, and procuring materials for the same, and also the compensation allowed for the services of the overseers thereof, shall be granted, assessed, collected and raised in the manner prescribed by the act, entitled "An act incorporating the inhabitants of townships, designating their powers, and regulating their meeting," and it is hereby enjoined upon the said townships, that they be careful to have money in hand, ready to advance sufficient for the objects and purposes specified in this act.

How money
to be raised.

17. *And be it enacted*, That it shall be the duty of every overseer of the highways, to account for the expenditure of the moneys which he shall receive, for the uses herein mentioned, to the township for which he was elected or appointed, at their an-

Overseers to
account.

1818.

nual or other meeting, or to the township committee aforesaid, and to pay the overplus, if any, to his successor in office, to be applied to the uses and purposes for which it was raised; and if such overseer shall neglect or refuse so to do, he shall for every offence forfeit and pay thirty dollars, to be recovered with costs, by action of debt, in any court of record having cognizance of that sum, by the clerk of the said township, to be applied, on recovery, to amend and repair the highways thereof; and shall also be liable to prosecution, at the suit of the inhabitants of the said township, for the moneys so by him received and unaccounted for.

Township
fined, the over-
seer to be lia-
ble.

18. *And be it enacted*, That in case any township shall be fined or amerced, upon the presentment of the grand jury, or upon the information of the attorney-general, for not opening and clearing out, or for the badness, want of repair, or deficiency in any of the highways, the overseer within whose limits or divisions the same shall be or happen, shall refund the money paid in consequence of such fine or amercement, with costs, upon an action brought by the inhabitants of such township; or such overseer may, in the first instance, be presented or informed against, as aforesaid, and fined on conviction, for not opening and clearing out, or for the badness, want of repair or deficiency of and in the highways aforesaid: *And further*, That the inhabitants of any township, merely as such, shall not be excluded from being witnesses on such presentment or information, on account of their being interested.

Road tax may
be worked
out.

19. *And be it enacted*, That if any person who is assessed for the raising of money to open, clear out, amend and repair the highways, elect to work out his tax, or any part of it, on the said highways, he shall give notice thereof in writing, to the overseer in whose limits and division he resides, within twenty days after the order for raising the said money shall be passed or made; in which case such person, if of the age of twenty-one, and under the age of fifty-five, and of ability to work, shall, on having two days previous notice, attend himself, or send a sufficient substitute, at such time and place as shall have been appointed by the said overseer, and shall work on the said highways under the direction and superintendence of such overseer; for which he shall be credited such a sum towards the payment of the said tax, as the said overseer shall think his labor deserves; and if neither such person, nor any substitute, shall attend at the said time and place, he shall forfeit and pay one dollar, to be recovered with costs, by action of debt, by the clerk of the township, in any court of record, having cognizance of that sum; to be applied, on recovery, to open, amend and repair the highways of such township; and the said overseer shall be admitted as a witness in support of the said action: *And further*, That the said person shall, upon such delinquency, forthwith pay the whole or the residue, as the case may require, of the said tax to the collector, or on failure, be proceeded against for the same according to law.

20. *And be it enacted*, That all roads laid out or to be laid out near to or across dams for mills or iron-works, shall be kept

1818.

in good repair, and the bridges over the races and flood-gates, shall be substantially built, repaired, amended, kept in good order, and railed in on each side, the rails to be at least three feet high, and the whole rendered easy, convenient and safe for the passing of travellers, horses, carriages and cattle; and the wheels of such mills and iron-works, shall be entirely covered in and hid, either by a sufficient breastwork, raised between the said road or bridge and the said water-wheels, or in such other way as effectually to secure persons, horses, cattle and carriages in passing the same. And where a dam hath been or shall be erected, and a public road or highway hath been or shall be laid out, near to or over the said dam, and across the races and flood-gates, such road shall be made and maintained, and the bridge or bridges over the same and the railing in thereof, shall be built, rebuilt, repaired and kept up, and the wheels of the mills or iron-works covered in and hid as aforesaid, pursuant to the directions of this act, under the immediate inspection, order and superintendence of the overseer of the highways within whose limits and division the same shall happen. And where any highway hath been or shall be laid out, before the making such dam, races or flood-gates, such highway, if it go near to or over the said dam, races or flood-gates shall be made and maintained, and the bridge or bridges over the same, if they be cut across the said highway for the use of such iron-works or mills, and the railing thereof shall be built and rebuilt, repaired and kept up, and the wheels covered in and hid as aforesaid, at the proper charge and expense of the owner or possessor of such iron-works or mills: *Provided*, That it shall and may be lawful for such possessor, if he be a tenant paying rent, to deduct and retain such charge and expense out of the said rent. And if the owner or possessor of such iron-works or mills shall neglect or refuse to perform the duty hereby required of him, he shall, for every month he shall neglect or refuse to comply with the provision of this act, forfeit and pay twenty dollars, to be recovered by action of debt, with costs, by the overseer of the township where the offence shall be committed, who is hereby required and enjoined to prosecute for the same, in any court of record having cognizance of that sum, the one moiety to the prosecutor and the other moiety to the township where the offence was committed.

Roads across mill-dams to be kept in repair, and by whom.

Proviso.

21. *And be it enacted*, That the owner or possessor shall be exonerated from keeping in repair the bridges mentioned in the preceding section, as long as he shall neglect to uphold the said iron-works or mills.

22. *And be it enacted*, That it shall and may be lawful for the overseer of the highways, or other person, by his order, to enter on lands adjacent to such highways, and to cut, make, scour out, cleanse and keep open such gutters, drains and ditches therein, as shall be sufficient to convey or draw off the water from the said highway, with the least disadvantage to the owner of the said land, and the owner and every other person, except such overseer, is hereby prohibited from filling up, stopping or obstructing such gutter, drain or ditch, under the penalty of eight

Powers of the overseer as to entering upon land adjacent to the road.

1818.

dollars, for every offence, to be recovered by action of debt, with costs, by the said overseer, in any court of record having cognizance of that sum, and applied to the working and repairing the said highways.

Penalty for
girdling trees,
&c.

23. *And be it enacted*, That no tree shall be girdled or killed on the highways under the penalty of two dollars, to be recovered and applied as in the preceding section; and if any be, it shall be the duty of the overseer of the highway forthwith to cut down such tree so girdled or killed.

24. *And be it enacted*, That if any person shall girdle or kill any tree standing within two rods of such highway, the owner or possessor of the land where the same stands, shall, within two years after such girdling or killing, cut down the said tree, or on failure thereof, shall forfeit and pay two dollars, to be recovered and applied as is directed by the twenty-second section of this act.

Penalty for
asking a tra-
veller for mo-
ney, &c.

25. *And be it enacted*, That no overseer or other person, working on the highways, or present as a spectator or otherwise, shall ask of any traveller, or shall extort, or by contrivance procure or receive from such traveller, any money, meat, drink or other reward or thing, under the penalty of two dollars, to be recovered and applied as directed by the twenty-second section of this act.

Overseer to re-
move all en-
croachments.

26. *And be it enacted*, That it shall be the duty of the overseer, in and through whose limits and division any highways are or shall be laid out, to cause the same to be opened to their full width, and all encroachments to be removed: and if it be doubtful to the said overseer, what person hath so narrowed or encroached upon the said highway, then such overseer, or the party conceiving himself to be injured, shall and may apply to any two justices of the peace of the county, and the surveyors of the township in and through which such highway runs, who, or the major part of them, are hereby authorized and directed to determine the same in writing, under their hands, and thereupon the said overseer shall forthwith proceed to open the said highway, agreeably to such determination; and if it be doubtful to the said justices and surveyors, or a majority of them, which of the proprietors or possessors of the adjacent lands have so narrowed or encroached on the said highway, then it shall be the duty of the said justices and surveyors, or a majority of them, to direct in writing, under their hands, the said overseer to open such highway equally on each, which order the said overseer shall forthwith carry into effect.

Penalty for
encroaching.

27. *And be it enacted*, That if any person shall narrow, encroach upon, stop or obstruct any highway, he shall, for every such offence, forfeit and pay ten dollars, to be recovered by action of debt, with costs, by the overseer of such highway, in any court of record having cognizance of that sum, and applied to the repair of the highways.

Not to extend
to altering a
street in any
town, &c.

28. *And be it enacted*, That nothing in this act contained shall be construed to extend to narrowing, widening or altering any

street in any of the cities, towns or villages in this state, or to pulling down or removing any dwelling-house, market-house or other public building heretofore erected, and which may encroach on any highway.

1818.

29. *And be it enacted*, That the main or high streets in the towns of Greenwich and Bridgetown, in the county of Cumberland, are hereby declared to be public highways, and as such to be repaired and kept in good order.

30. *And be it enacted*, That the great road leading from Perth-Amboy to Salem, and the great road leading from Elizabeth-Town to Trenton, as the same now go, are hereby declared to be subject to the same laws and regulations to which other highways in this state are subject.

31. *And be it enacted*, That it shall and may be lawful for the inhabitants of the respective townships in this state, qualified by law to vote for township officers, at their annual town-meeting, to determine by vote of said meeting, whether they will work and maintain their highways by hire, in the manner herein before mentioned, or by labor, in the manner hereinafter set forth, a copy of which vote, signed by the clerk of the said township, shall be transmitted to the township committee within five days after the said town-meeting; and in all cases where the inhabitants of any township shall have elected to work and maintain their highways by hire, it shall not be lawful to change the mode of working and maintaining such highways in such township for three years.

Town-meetings to determine in what manner the roads are to be worked.

32. *And be it enacted*, That in case the inhabitants of any township shall elect, in the manner appointed in the preceding section, to maintain their public highways by labor, then it shall be the duty of the township committee, on notice thereof from the town-clerk as aforesaid, to divide the highways in such township into convenient districts, and to assign and apportion, in writing, to the several districts, the inhabitants of such township in equitable proportions, having regard to the circumstances of such inhabitants and the quality of the highways to be opened, maintained and kept in order, and that the overseers of the highways, shall, at their discretion, apportion the labor of the inhabitants of the said township in the same proportion with the tax for the support of government, and shall warn and call out the inhabitants to work on the highways accordingly; and it shall not be lawful to change the mode of working and maintaining such highways in such township by labor, for three years.

In what cases township committee to divide the roads into districts.

33. *And be it enacted*, That if any inhabitant, who shall have received two days previous notice, shall neglect or refuse to appear and work one day, of at least eight hours, then he shall forfeit and pay to the overseer of the district or division to which he is annexed, the sum of one dollar, for every day he shall so refuse or neglect to labor; the sum of one dollar and fifty cents, for each day's absence of a cart and one horse, and two dollars, for each day's absence of a waggon or cart with two or more horses or oxen, so warned out, to be recovered by an action of debt.

Penalty for not working on the road.

1818.

before any justice of the peace of the county where such omission shall happen, with costs of suit, and the money, when recovered, shall be applied to the working and repairing of the highways to which such inhabitants were annexed.

Overseer to
keep a book,
&c.

34. *And be it enacted*, That it shall be the duty of every overseer of the highways, in those townships which elect to work and maintain their highways by labor, to keep a book, in which he shall enter the name of every person liable to labor on the highways within his district, and the amount of labor done by each person that year, a transcript of which book the said overseer shall lay before the township committee, at their annual or some other meeting, near the close of the year, under oath or affirmation, that the same is just and true, to the best of his knowledge and belief; and shall also transmit a true copy of said book to his successor, within twenty days after his appointment.

35. *And be it enacted*, That it shall be the duty of every overseer in the townships aforesaid, to examine the book received by him from his predecessor, and to require those persons who shall appear to be delinquent, and not to have done their proportion of labor the preceding year, to perform the same.

In case the
overseer is not
supplied with
money how to
proceed.

36. *And be it enacted*, That in case any township in any county of this state, which shall elect or determine to maintain their highways by hire, shall neglect or refuse to raise and furnish to the overseer of the highways money sufficient for the opening, clearing out, working, making, amending, repairing and keeping in good order the highways and bridges within their respective limits, then it shall be, and it is hereby made the duty of the overseers of the highways, in said townships, to open, clear out, work, amend, repair, and keep in good order the highways within their respective limits and divisions, in the same way and manner as is prescribed to the overseers of the highways of those townships which elect to maintain their highways by labor.

Penalty on
overseer for
neglect of du-
ty.

37. *And be it enacted*, That the overseer or overseers of the highways, in any of the townships of this state, shall, for neglect or refusal to perform any of the duties enjoined on him or them, by this act, be liable to an action for said neglect or refusal; and it shall be, and is hereby the duty of any magistrate in said township, or in any adjacent township, upon complaint preferred in writing, by any three inhabitants of this state, being freeholders, to issue his precept against said overseer, and, upon conviction, to fine the said overseer in any sum not exceeding twenty dollars, nor under five dollars, together with costs, to and for the use of the township.

Posts and mile-
stones to be
placed.

38. *And be it enacted*, That the board of chosen freeholders of each and every county in this state, shall have full power and authority to place, or cause to be placed, at the intersection of all such public roads and highways in their respective counties, as they in their discretion may deem proper, a post or stone; and likewise a stone at the end of each mile, on all roads as aforesaid, with inscriptions engraved or painted thereon, in legible characters, the name or names of the most noted or public place or places to which such road may lead, and also the names

of such other places as may be thought proper, with the estimated number of miles to such places respectively, in figures; and that the board of freeholders of the respective counties, or some person or persons by them appointed, shall superintend the erecting and keeping in repair such post or stone guides and milestones, at the expense of the counties respectively; and if any person shall throw down, demolish or deface any such post or stone guides or milestones, appendages, letters or figures, thereon engraved or painted, or be aiding or assisting in such offence, he shall pay a fine of ten dollars, to be sued for in an action of debt, by the overseer of the highway in whose district the offence has been committed, and when recovered to be applied to the use of the county.

1818.

At whose expense.

Penalty for defacing posts or stones.

39. *And be it enacted*, That if any overseer shall neglect or refuse, upon information being given him, to prosecute as directed in the preceding section, he shall forfeit and pay, for every such refusal or neglect, ten dollars, to be recovered by the clerk of the board of chosen freeholders, for the use of the county; but if judgment shall be awarded against such overseer, then and in that case the costs arising thereon shall be paid by the collector of the county.

Penalty on overseer for neglect to prosecute.

40. *And be it enacted*, That the following, and no other fees, shall be allowed and taken for services done and rendered by virtue of this act.

Fees.

Overseers.—To every overseer of the highways, one dollar for every day he shall be employed in executing the duties required by this act.

Courts.—For every appointment of surveyors of the highways, fifty cents; for every appointment of the chosen freeholders, fifty cents; for every order for recording the proceedings of the surveyors or freeholders, fifty cents.

Surveyors of highways.—To each surveyor, at the rate of one dollar per day.

Chosen freeholders.—To each freeholder, at the rate of one dollar per day.

Clerks.—For reading and filing every application, twelve and a half cents; for entering and filing caveat, twelve and a half cents; for entering every order for recording, twelve and a half cents; for every copy thereof, twelve and a half cents; for recording and filing return of surveyors and freeholders, twenty-five cents; for a copy of such return, twelve and a half cents.

41. *And be it enacted*, That the act, entitled "An act making provision for working and repairing the highways," passed the sixteenth day of March, in the year of our Lord, one thousand seven hundred and ninety-eight; and the act, entitled "An act concerning roads," passed February the twenty-second, in the year eighteen hundred and eleven, and the several supplements and additional supplements thereto, and all acts and parts of acts coming within the purview of this act and contradictory thereto, be, and the same are hereby repealed.

Acts repealed.

See act 18th February, 1813, and act 3d November, 1814, and supplement 29th January, 1820.

1818.

PAM. 95.
See ante 601.**A SUPPLEMENT to the act entitled "An act, to incorporate the medical society of New-Jersey."**

Passed the 10th of February, 1818.

Medical society,
by whom
composed.

Quorum.

Applicants to
be examined,
and by whom.Accounts to
be delivered
in plain En-
glish words;

and taxed.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the medical society of New-Jersey, shall henceforward be composed of four delegates, chosen by and from each of the district societies, which now are, or may be hereafter formed, in the respective counties of the state, in equal representation: the officers for the time being shall be ex-officio members of the medical society of New-Jersey, independently of the authority of delegation: the society thus composed shall meet on the second Tuesday of May next, which is hereby made the time of annual meeting: there shall also be a semi-annual meeting on the second Tuesday of November, yearly and every year: the delegates aforesaid shall possess all the authority and privileges given by the above incorporating act, to the medical society of New-Jersey, and the board of managers therein constituted: delegates from two district societies, with the president, or one of the vice-presidents, may form a quorum for business, on the days of stated meetings: special meetings require delegates from four district societies to form a quorum.

2. *And be it enacted,* That it shall be the duty of the said medical society, when convened, at their annual or semi-annual meeting, to appoint from each society that now is, or hereafter may be organized, in any of the counties of this state, three censors to examine any applicant who may apply to the president or vice-president of said county society for examination, of which three, the president or vice-president always to be one, who shall proceed to examine the applicant or applicants, without delay; and their approving signatures shall be necessary to make valid each certificate, to the presiding officer of the medical society of the state of New-Jersey, for a license, who shall thereafter immediately license the said person, so producing said certificate, to practice physic and surgery within this state.

3. *And be it enacted,* That any person now lawfully practising physic or surgery, or who shall be licensed as by this act directed, shall deliver his account or bill of particulars, to all patients or their lawful representatives respectively, in plain English words, or as nearly so as the articles will admit; and the said patients, or their lawful representatives respectively, may, by appearing before any court having jurisdiction, either by consent, or in obedience to process issued therefrom, and upon giving security to appear at any time of adjournment, if required by law, require the taxation of the said bill; and for this purpose the said court may adjourn the trial of the said issue between the said parties, a sufficient time to procure said taxation; and the party complaining may then apply to any justice of the supreme court, or to any judge of a court of common pleas of the county where such patient, his or her representatives may reside; and

the said justice or judge, after calling to his assistance such person or persons skilled in medicine or surgery, as the said justice or judge shall think proper, shall tax the said bill, and certify what in his opinion is justly due: *Provided*, That the complainant shall give at least five days notice to the opposite party, of the person before whom, the place where, and the time when the said bill will be taxed; which notice shall be given, and the taxing done, before the said time to which the said cause shall be adjourned.

1818.

Proviso.

4. *And be it enacted*, That the seventh section, and so much of the before recited act of incorporation, as comes within the purview of this supplement, be, and the same are hereby repealed.

Section repealed.

AN ACT constituting courts for the trial of small causes.

P.A.M. 65.

Passed the 12th of February, 1818.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every suit of a civil nature at law, where the debt, balance, or other matter in dispute, does not exceed, exclusive of costs, the sum or value of one hundred dollars, shall be, and hereby is made cognizable before any justice of the peace of any county in this state, who is hereby authorized to hold a court within such county, to hear, try and determine the same according to law, although the cause of action did not arise in said county; and further, that the said court shall be a court of record, and vested for the purposes aforesaid, with all such power as is usual in courts of record of this state: *Provided always*, That this act shall not extend to any action of replevin, slander, trespass for assault, battery or imprisonment, or to any action, wherein the title to any lands, tenements, hereditaments or other real estate, shall or may in anywise come in question.

What suits cognizable before a justice.

Proviso.

2. *And be it enacted*, That the territorial jurisdiction of every justice of the peace, under this act, shall be co-extensive with the limits of the county, for which he is appointed and commissioned; that his writs, precepts and process, shall run in and through such county, and that he may, in causes pending before him, award writs of subpœna ad testificandum, into other counties of this state.

Extent of jurisdiction.

3. *And be it enacted*, That the constables of the several townships in such county, shall be the ministerial officers of the said court, and that it shall be the duty of said constables to execute within the county, all precepts, summons, warrants, writs and other process, issuing out of the said court, and to them and any of them directed or delivered, and make return thereof, and to perform all matters, acts and things appertaining to their offices aforesaid.

Duty of constables.

4. *And be it enacted*, That all such precepts, summons, warrants, writs, and other process, shall be tested the day on which

See act, 12th of June, 1820.

1818. they are respectively issued, and shall be signed and sealed by the justice who issued the same.

First process.

5. *And be it enacted*, That the first process which shall be issued against any defendant by virtue of this act, shall be a summons or a warrant, in nature of a *capias ad respondendum*, as the case may require, but the plaintiff may, notwithstanding, in any case make use of the former.

The summons, and how to be served.

6. *And be it enacted*, That the summons to cite the defendant to appear before the said justice, shall specify a certain place and time, not less than five, nor more than fifteen days from the date of such process, and shall be served at least five days before the time of appearance mentioned therein, by reading the same to the defendant, and delivering to him a copy thereof, when required, if he or she shall be found, and if not found, by leaving a copy thereof at his or her house or place of abode, in presence of some free person of the family, of the age of fourteen years, who shall be informed of the contents thereof; and the constable serving such summons shall, on the oath of his office, endorse thereupon the time and manner he executed the same, and sign his name thereto.

Defendant not appearing, justice may proceed to hear.

7. *And be it enacted*, That if the defendant does not appear at the time and place expressed in such summons, and it shall appear by the return endorsed thereon, that the summons was duly served, and no sufficient reason be assigned to the justice why the defendant does not appear, then the said justice may proceed to hear and determine the cause, in the absence of such defendant.

8. *And be it enacted*, That the process which shall be used by virtue of this act, in cases where the defendants are freeholders, and residents in the county where such process shall be issued, and in cases wherein the defendants cannot be held to bail, shall be a summons.

When a warrant may issue against a freeholder.

9. *Provided always, and be it further enacted*, That if any plaintiff, his attorney or agent, shall prove, either by his or her own oath or affirmation, or by the oath or affirmation of any indifferent person, to the satisfaction of the justice, that if the process be by summons against such freeholder, the plaintiff will be in danger of losing his or her debt or demand, or doth really believe that such freeholder will abscond or depart, or remove from the county wherein he or she resides, before the return day of such summons, then it shall be the duty of the said justice to issue a warrant against such freeholder.

In what cases a warrant may issue, and proceedings thereon.

10. *And be it enacted*, That the warrant commanding the defendant to be arrested, may, under this act, be used in all cases where the defendant is not a freeholder, residing in such county, and can by law be held to bail, and shall be returnable forthwith after service thereof; and the constable serving said warrant shall, according to the tenor thereof, forthwith convey the said defendant before the justice who issued the same, who shall thereupon, at his discretion, either cause the said defendant to enter into recognisance in the manner hereinafter mentioned, or, on neglect

1818.

or refusal, shall command the said constable to convey the said defendant to the gaol of the county, to be there detained in custody, until time may be had for the hearing or trial of the cause, not exceeding three days, from the time of the return of the said warrant, or such justice may direct the said constable to hold the said defendant in custody, until the plaintiff shall be notified and have time to appear and proceed to such hearing or trial; and the constable who served the said warrant as aforesaid, shall, on the oath of his office, endorse thereon the execution of the same, and sign his name thereto: *Provided always*, That if any person or persons whatsoever, shall hereafter be arrested by virtue of a warrant granted by a justice of the peace, in a cause of a civil nature, it shall be lawful for the constable who served the same, to permit the defendant to enter into bond to the plaintiff, with a good and sufficient freeholder, to the amount of the debt or damages and costs endorsed on the warrant, for his, her, or their appearance on the day and hour mentioned in the bond, not more than eight days (excluding Sundays) from the service of the warrant. The bond to be entered into by the defendant, shall be in the form and to the effect following, to wit: We, A. B. and C. D. do hereby acknowledge ourselves indebted to E. F. in the sum of to be paid to said E. F. on the following conditions: that if the said A. B. shall be and appear before

one of the justices of the peace of on the day of at o'clock noon, and answer unto the complaint of the said E. F. then this bond to be void, or else to be and remain in full force and virtue. In witness whereof we have hereunto set our hands and seals, the day of in the year of our Lord one thousand eight hundred and . Sealed and delivered in the presence of G. H., I. K. Signed A. B. and C. D. Which bond the said constable is hereby ordered and directed, when taken, to deliver to the justice on the return of the warrant, to be by him filed in his office, to and for the use of the plaintiff, for which service the constable shall be entitled to twenty-five cents cost, to be paid by the defendant, and not recoverable by him from the plaintiff. And in all cases, the said constable shall attend at the said justice's court, on the day and hour mentioned in said bond, to be there and then ready to secure and take into his custody, the said defendant. And if the said justice shall not be found at his dwelling, or usual place of holding trials, the defendant shall be permitted to renew his bond, with sureties as aforesaid, for his appearance at some future day, not exceeding ten.

11. *And be it enacted*, That the said justice shall enter in the body of every summons or warrant, the sum demanded, (and endorse the same, with costs, on the said summons or warrant) which he shall issue by virtue of this act; and if the defendant think proper to pay such debt, damages or demand, with costs, so entered or endorsed, without any further proceedings in the cause, then it shall be lawful for the constable to receive the same, and his receipt shall be a full discharge to such defendant from such debt, damages or demand and costs aforesaid; and if

What to be
endorsed on
summons or
warrant.

1818.

they are respectively issued, and shall be signed and sealed by the justice who issued the same.

First process.

5. *And be it enacted*, That the first process which shall be issued against any defendant by virtue of this act, shall be a summons or a warrant, in nature of a *capias ad respondendum*, as the case may require, but the plaintiff may, notwithstanding, in any case make use of the former.

The summons,
and how to be
served.

6. *And be it enacted*, That the summons to cite the defendant to appear before the said justice, shall specify a certain place and time, not less than five, nor more than fifteen days from the date of such process, and shall be served at least five days before the time of appearance mentioned therein, by reading the same to the defendant, and delivering to him a copy thereof, when required, if he or she shall be found, and if not found, by leaving a copy thereof at his or her house or place of abode, in presence of some free person of the family, of the age of fourteen years, who shall be informed of the contents thereof; and the constable serving such summons shall, on the oath of his office, endorse thereupon the time and manner he executed the same, and sign his name thereto.

Defendant not
appearing,
justice may
proceed to
hear.

7. *And be it enacted*, That if the defendant does not appear at the time and place expressed in such summons, and it shall appear by the return endorsed thereon, that the summons was duly served, and no sufficient reason be assigned to the justice why the defendant does not appear, then the said justice may proceed to hear and determine the cause, in the absence of such defendant.

8. *And be it enacted*, That the process which shall be used by virtue of this act, in cases where the defendants are freeholders, and residents in the county where such process shall be issued, and in cases wherein the defendants cannot be held to bail, shall be a summons.

When a war-
rant may issue
against a free-
holder.

9. *Provided always, and be it further enacted*, That if any plaintiff, his attorney or agent, shall prove, either by his or her own oath or affirmation, or by the oath or affirmation of any indifferent person, to the satisfaction of the justice, that if the process be by summons against such freeholder, the plaintiff will be in danger of losing his or her debt or demand, or doth really believe that such freeholder will abscond or depart, or remove from the county wherein he or she resides, before the return day of such summons, then it shall be the duty of the said justice to issue a warrant against such freeholder.

In what cases
a warrant may
issue, and pro-
ceedings
thereon.

10. *And be it enacted*, That the warrant commanding the defendant to be arrested, may, under this act, be used in all cases where the defendant is not a freeholder, residing in such county, and can by law be held to bail, and shall be returnable for appearance after service thereof; and the constable serving said warrant according to the tenor thereof, forthwith convey the defendant before the justice who issued the same, who shall, at his discretion, either admit the defendant to bail, or commit him to the custody of the sheriff, or to the custody of some other person mentioned in the warrant.

1818.

or refusal, shall command the said constable to convey the said defendant to the gaol of the county, to be there detained in custody, until time may be had for the hearing or trial of the cause, not exceeding three days, from the time of the return of the said warrant, or such justice may direct the said constable to hold the said defendant in custody, until the plaintiff shall be notified and have time to appear and proceed to such hearing or trial; and the constable who served the said warrant as aforesaid, shall, on the oath of his office, endorse thereon the execution of the same, and sign his name thereto: *Provided always*, That if any person or persons whatsoever, shall hereafter be arrested by virtue of a warrant granted by a justice of the peace, in a cause of a civil nature, it shall be lawful for the constable who served the same, to permit the defendant to enter into bond to the plaintiff, with a good and sufficient freeholder, to the amount of the debt or damages and costs endorsed on the warrant, for his, her, or their appearance on the day and hour mentioned in the bond, not more than eight days (excluding Sundays) from the service of the warrant. The bond to be entered into by the defendant, shall be in the form and to the effect following, to wit: We, A. B. and C. D. do hereby acknowledge ourselves indebted to E. F. in the sum of to be paid to said E. F. on the following conditions: that if the said A. B. shall be and appear before

one of the justices of the peace of on the day of at o'clock noon, and answer unto the complaint of the said E. F. then this bond to be void, or else to be and remain in full force and virtue. In witness whereof we have hereunto set our hands and seals, the day of in the year of our Lord one thousand eight hundred and . Sealed and delivered in the presence of G. H., I. K. Signed A. B. and C. D. Which bond the said constable is hereby ordered and directed, when taken, to deliver to the justice on the return of the warrant, to be by him filed in his office, to and for the use of the plaintiff, for which service the constable shall be entitled to twenty-five cents cost, to be paid by the defendant, and not recoverable by him from the plaintiff. And in all cases, the said constable shall attend at the said justice's court, on the day and hour mentioned in said bond, to be there and then ready to secure and take into his custody, the said defendant. And if the said justice shall not be found at his dwelling, or usual place of holding trials, the defendant shall be permitted to renew his bond, with sureties as aforesaid, for his appearance at some future day, not exceeding ten.

11. *And be it enacted*, That the said justice shall enter in the body of every summons or warrant, the sum demanded, (and endorse the same, with costs, on the said summons or warrant) which he shall issue by virtue of this act; and if the defendant think proper to pay such debt, damages or demand, with costs, or endorsed, without any further proceedings in the it shall be lawful for the constable to receive the is receipt shall be a full discharge to such defendant debt, damages or demand and costs aforesaid; and if

What to be
endorsed on
summons or
warrant.

1818.

Constable
liable.

any constable shall not pay the money so by him received for such debt, damages or demand, to the justice issuing such process, or to the plaintiff in the said process, or his legal representative, within fifteen days after he shall have received the same, then such constable shall be liable to pay to such plaintiff or his legal representative, the amount of the said debt, damages or demand, with interest, to be recovered by action of debt, with double costs.

Recognizance
and form.

12. *And be it enacted*, That the recognizance directed in the tenth section of this act, shall be entered into by the defendant, with at least one surety, having sufficient freehold, and residing in the county, to the plaintiff in the said action, in the amount of the demand specified in the warrant, according to the effect and meaning of the following form, that is to say:

county, to wit:

Whereas A. B. hath been arrested and is now in custody, by virtue of a warrant issued by C. D. one of the justices of the peace in and for the said county, at the suit of E. F. in an action of _____ for the sum of _____. Now be it remembered, that on the _____ day of _____ in the year of our Lord, one thousand eight hundred and _____ the said A. B. and G. H. of the county aforesaid, personally appeared before me the said C. D. and jointly and severally acknowledged themselves to owe to the said E. F. the sum of _____ to be made and levied of their several goods and chattels, and in want thereof, of their bodies, upon condition, that if the said A. B. shall not appear on the _____ day of _____ next, before the said justice, or if he does appear and is condemned in the said action, at the suit of the plaintiff, that he shall pay the costs and condemnation money, or surrender him up to the constable, on the execution to be thereafter issued against him, on the day judgment shall be obtained, and if he fail so to do, that he the said G. H. will pay the said costs and condemnation money for him, and suffer judgment to be entered up against him for the same.

Acknowledged the day and year last abovesaid, before me C. D. one of the justices of the peace in and for the said county of _____. And every justice of the peace is hereby empowered and directed to take such recognizance, which shall remain with such justice, for the benefit of the plaintiff in the suit.

Defendant not
appearing, the
justice may
proceed.

13. *And be it enacted*, That if the defendant does not appear at the time and place expressed in such recognizance, and no sufficient reason shall be assigned to the justice why the defendant does not appear, then the said justice may proceed to hear and determine the cause, in the absence of such defendant.

State of de-
mand when to
be delivered.

14. *And be it enacted*, That the plaintiff in such suit shall, on or before the return day of the said summons, or on the return of the warrant, or at the time of appearance specified in the recognizance, deliver, or cause to be delivered, to the justice before whom the action is to be tried, a copy of his or her account or state of demand against the defendant, and in default thereof, the said plaintiff shall be nonsuited, with costs; and if the defendant have any account or demand against the plaintiff, shall be permit-

ted to discount or set off the same against the account, debt or demand of such plaintiff; but such copy of his or her account, or state of his or her demand, so intended to be set off, shall be delivered to the said justice, on or before the return day of the summons; or if on a warrant, then at the time of hearing of the cause; and in default thereof the said account or demand shall not be received in evidence on the trial of the said cause; but if the said warrant shall not have been executed three days prior to the day of hearing, then the said defendant, if he or she have any account or demand to set off and will enter into recognizance, as directed by the twelfth section of this act, shall be allowed further time, not exceeding three days, to deliver to the said justice such copy of his or her account or state of demand as aforesaid.

1818.

Defendant's account to be set off; when to be delivered.

15. *And be it enacted*, That if any defendant neglect or refuse to deliver a copy of his or her account or state of demand, against such plaintiff, he or she shall for ever thereafter be precluded from having or maintaining any action for such account or demand, or from setting off the same in any future suit: *Provided always*, That where the balance found to be due to such defendant exceeds the sum of one hundred dollars, then the said defendant shall not be precluded from recovering his or her account or demand against such plaintiff, in any other court of record having cognizance of the same.

In what cases defendant precluded.

Proviso.

16. *And be it enacted*, That when the parties in any suit to be instituted by virtue of this act, shall appear at the place and time expressed in the summons, or at the return of the warrant, or at the time of appearance mentioned in the recognizance, the said justice shall proceed to hear or examine their respective allegations and proofs, unless he shall think it proper to adjourn the trial.

When justice shall hear the cause.

17. *And be it enacted*, That any justice of the peace, before whom a suit is instituted by virtue of this act, may, to prevent fraud or surprise on either side, or on reasonable cause being assigned by or in behalf of either party, adjourn the trial to any time not exceeding fifteen days from the return day of the summons, or, if the process be by warrant, from the time when the same was returned, or from the time of appearance mentioned in the recognizance, except where the applicant for such adjournment shall make oath or affirmation, that he cannot safely go to trial for want of a material witness, whom he shall name, being absent and out of this state, and then such justice may postpone the trial to any time not exceeding three calendar months from the return day of the summons: *Provided*, That if the process is by warrant, the defendant shall, previous to such adjournment, if required by the justice, enter into recognizance to the plaintiff, as in and by this act is before directed: *Provided also*, That if either of the parties to a suit, hereafter brought before a justice of the peace, cannot, on the day of the first adjournment, safely go to trial for the want of a material witness in the cause, whom he shall name, and thinks he can produce on a future day, and shall file an affidavit thereof with the justice, then the justice

Trial may be adjourned.

See section 6, act November 17, 1820.

How obtained

1818.

may adjourn the trial to any future day, not less than five nor more than thirty days, (excluding Sundays) from the day of such adjournment, on payment of the cost by the party who makes application for the same.

Action by consent.

Judgment by confession.

18. *And be it enacted*, That where parties agree to enter, without process, any action before a justice of the peace, to the decision of which he is competent, if process had been executed, such court shall proceed thereon to final judgment and execution, in the same manner as if a summons or warrant had been issued and duly served. But if judgment by confession shall be entered against the defendant, unless an affidavit shall first be made, as directed in the first and third sections of an act, entitled "An act to prevent the fraudulent confessions of judgments," passed January the twenty-ninth, in the year of our Lord, one thousand eight hundred and seventeen, (which affidavit may be taken, and if taken shall be filed and preserved by the said justice) such judgment shall not operate or have any effect against any person or persons not parties in said action, but shall be binding and have its full effect, so far as relates to the parties in the suit only.

Jury may be demanded, and when.

Who may be jurors.

Italic, repealed and supplied by act, 13th June, 1820.

* Sixteen, see 4th sec. supplement 13th June, 1820.

19. *And be it enacted*, That in every action which shall be brought before any justice of the peace, by virtue of this act, it shall and may be lawful for either of the parties, after the defendant has appeared or put in his plea to such action, and before the said justice has proceeded to inquire into the merits of the cause, to demand a trial by jury, which the said justice is hereby required to grant, and thereupon a venire shall be issued to summon a jury of six men, and no more, if the debt or demand do not exceed the sum of twenty-five dollars, or a jury of twelve men, and not less, if the debt or demand exceed the sum or value of twenty-five* dollars, being citizens of this state, above the age of twenty-one years, and under the age of sixty-five years, and freeholders in the said county where the said cause is to be tried, and in no wise akin to the plaintiff or defendant, nor interested in the suit, to be and appear before the said justice at such time and place as shall be expressed in the venire, to make a jury for the trial of the action, between the parties mentioned therein; and the constable shall, at the return of the said venire, return, annexed thereto, a panel containing the names of the jurors whom he shall have summoned by virtue thereof. And if on the return of the venire it shall appear, that one or more of the jurors are disqualified to serve, or do not appear, then it shall be lawful for the constable who served the same, by order of the court, immediately to summon others, who shall serve in their stead.

Who to pay the costs of the jury.

20. *And be it enacted*, That when either of the parties to a suit before any justice of the peace, shall demand a jury of twelve men, and such jury shall find a sum in favor of such applicant, above five, and not exceeding twenty-five dollars, then such applicant shall pay one half of the costs of such jury, and if the sum found by such jury, in favor of such applicant, be five dollars or under, then he shall pay the whole costs of such jury; and when either party shall demand a jury of six men, and such

jury shall find a sum in favor of such applicant, under five dollars, then the said applicant shall pay the costs of such jury.

1818.

21. *And be it enacted*, That to the jurors and each of them who shall be returned to try the said cause as aforesaid, the said justice shall administer the following oath or affirmation:

You do swear in the presence of Almighty God, (or do affirm, as the case may require) that you will well and truly try the matter in difference between plaintiff, and defendant, and a true verdict give, according to evidence.

Oath or affirmation of jurors.

That to every witness produced at the said trial, the justice shall administer the following oath or affirmation:

You do swear in the presence of Almighty God, (or do affirm, as the case may require) that the evidence you shall give to the court and jury in this matter in difference between plaintiff, and defendant, shall be the truth, the whole truth, and nothing but the truth.

Of witness.

And that to the constable who shall be appointed to attend the jury, the said justice shall administer the following oath or affirmation:

You do swear in the presence of Almighty God, (or do affirm, as the case may require) that you will, to the utmost of your ability, keep every person sworn (or affirmed) on this jury, together in some private or convenient place, without meat or drink, (water excepted) that you will not suffer any person to speak to them, nor speak to them yourself, except by order of the court, unless it be to ask them whether they have agreed on their verdict, until they have agreed on their verdict.

Of constable.

22. *And be it enacted*, That every person summoned as a juror, or subpoenaed as a witness, who shall not appear, or appearing, shall refuse to serve or give evidence in any such action, shall forfeit and pay for every such default or refusal, unless some reasonable cause be assigned, such fine, not exceeding twenty dollars nor less than one dollar, as the said justice shall think proper to impose; and such justice is hereby authorized and required to issue an execution, directed to any constable of the said county, to levy the same of the goods and chattels of the offender, which fine, when recovered, shall be applied by the said justice to the use of the said county.

Juror or witness not appearing, to be fined.

23. *And be it enacted*, That if the plaintiff, other than the executors or administrators, in any such action, shall be nonsuited, or shall discontinue or withdraw his action, without the consent of the defendant, then judgment shall be given against such plaintiff, for the costs which have accrued, or if such plaintiff shall appear to owe, or be indebted to the defendant, then judgment shall be given against him for the debt or damages, and costs, as the case may require.

Plaintiff in certain cases, to pay costs.

24. *And be it enacted*, That when judgment shall be given against the plaintiff or defendant, by virtue of this act, the said justice shall grant execution thereupon, commanding the constable to levy and make the debt or damages, and costs, of the

Execution to issue, and against what.

1818.

Italic, repealed by act of June 13, 1820.

When against freeholders.

goods and chattels of the party, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of such party, and convey him to the gaol of the county: *Provided always*, That no execution shall issue against the body of any man having a family, or against the body of any female, when the debt does not exceed ten dollars: *And provided always*, That when judgment shall be obtained against executors or administrators, execution shall issue thereon, in the same manner as it is issued against them in the other courts of law of this state: *And provided also*, That when any judgment given against any freeholder, by virtue of this act, shall not be more than fifteen dollars, nor less than five dollars, execution shall not issue until after one month from the time of such judgment rendered; and when the judgment shall exceed fifteen, and not exceeding sixty dollars, no execution shall issue until after three months from the time of the render of such judgment; and when the judgment shall exceed sixty dollars, no execution shall issue until after six months from the time of the rendering of such judgment, unless the party in whose favor judgment may be given, shall make it appear to the satisfaction of the justice, either on his or her own oath or affirmation, or on the oath or affirmation of some indifferent person, that he or she is in danger of losing his or her debt or damages, if such delay of execution be allowed, which oath or affirmation the said justice shall reduce to writing, in the form of an affidavit, and the same shall be signed by the person making it, and filed by the justice in his office, in which case the said justice shall issue execution immediately, as herein before directed, unless the party against whom such judgment is given, shall thereupon give security to the adverse party, for the payment of the debt, or damages and costs, within the month, three months, or six months, (as the case may be) in this section limited. *And further*, It is the true intent and meaning of this act, that if any defendant shall appear at the return of the summons or warrant, or by consent without process, or on the day that judgment shall be rendered, and procure a good and sufficient freeholder, resident in the county, to join with such defendant in a confession of judgment, to the adverse party, with costs, then such defendant shall be entitled to all the privileges which any freeholder is entitled to by virtue of this act; but when any process is by summons, the justice may consider the defendant a freeholder, if not made satisfied by the plaintiff to the contrary.

Proceedings in selling the goods of the debtor, and what reserved.

25. *And be it enacted*, That the constable, who by virtue of such execution, levies on any goods and chattels, shall give notice by advertisements, signed by himself, and put up in three of the most public places in the township where they were taken, of the time and place they will be exposed to sale, at least five days before the time appointed for selling them, and therein describe the goods and chattels so taken; and shall, at the time and place so appointed, expose them to sale by public vendue, and strike them off to the highest bidder, and pay the money thence arising to the plaintiff, or in case of his absence to the justice, and with-

in thirty days from the time he shall receive the execution, make return to the justice who issued the same, of the proceedings had thereon, and the said justice shall make a record thereof: *Provided*, That one bed and bedding, the property of any debtor having a family, shall be reserved for the use of the family against all creditors, and shall not be liable to be seized or taken by virtue of any process.

1818.

26. *And be it enacted*, That in all cases where any constable shall, by virtue of any writ of execution or attachment, issuing out of this court, levy on, attach, or take into his possession, any goods or chattels, which shall be claimed, by notice in writing, delivered to said constable, by any other person or persons than the defendant, he shall immediately, upon such claim, delay his sale of the same for the space of ten days, that the said claimant or claimants may, within the said term, apply to some justice of the peace within or near the township where such goods or chattels were so seized, for a venire to summon a jury of six lawful men as jurors, to try the right of such claimant or claimants to said property, and it shall be lawful for such justice of the peace to issue the same, and direct a return thereof to be to him made, and to proceed therein as in other cases of trials by jury, but the claimant or claimants shall, in all cases, give notice in writing, to the plaintiff, of the time and place of the said trial.*

Manner of proceeding in case goods levied on are claimed as not belonging to the defendant.

27. *And be it enacted*, That the verdict of such jury shall protect the said constable from any action for taking and seizing such property, or delivery thereof to the claimant; and if the said property shall be found to belong to the said claimant or claimants, the said constable shall proceed no further with the same; but if it shall be found to belong to the defendant, he shall proceed to dispose of the same, as is directed in such process; and the costs attending such trial shall be taxed by the said justice as in other cases, and shall be paid by the plaintiff at whose suit the said property was taken and seized, if the said claimant or claimants obtain a verdict in his, her, or their favor; and by such claimant or claimants, if the verdict is found against him, her, or them: *Provided*, That if the plaintiff, upon notice being given to him as aforesaid, shall indemnify the constable against the demand of the claimant, then he shall suspend any further proceeding therein, and proceed to sell.

The constable protected.

28. *And be it enacted*, That for want of goods and chattels whereon to levy, the said constable shall, according to the tenor of the said execution, take the body of the person against whom the said execution is issued, and convey and deliver him to the keeper of the common gaol of the county, who is hereby commanded to keep such person in safe custody, in the common gaol aforesaid, until the debt or damages, with costs, be fully paid, or until he be thence delivered by a due course of law: and the said constable shall, at the same time, deliver to the said gaoler a copy of said execution, and shall take said gaoler's receipt upon the execution, and return the same to the justice who issued it,

Duty of the constable on taking the body of a debtor.

* See first section of supplement, June 13, 1820.

1818.

PAM. 95.

See ante 601.

A SUPPLEMENT to the act entitled "An act, to incorporate the medical society of New-Jersey."

Passed the 10th of February, 1818.

Medical society,
by whom
composed.

Quorum.

Applicants to
be examined,
and by whom.Accounts to
be delivered
in plain En-
glish words;

and taxed.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the medical society of New-Jersey, shall henceforward be composed of four delegates, chosen by and from each of the district societies, which now are, or may be hereafter formed, in the respective counties of the state, in equal representation: the officers for the time being shall be ex-officio members of the medical society of New-Jersey, independently of the authority of delegation: the society thus composed shall meet on the second Tuesday of May next, which is hereby made the time of annual meeting: there shall also be a semi-annual meeting on the second Tuesday of November, yearly and every year: the delegates aforesaid shall possess all the authority and privileges given by the above incorporating act, to the medical society of New-Jersey, and the board of managers therein constituted: delegates from two district societies, with the president, or one of the vice-presidents, may form a quorum for business, on the days of stated meetings: special meetings require delegates from four district societies to form a quorum.

2. *And be it enacted,* That it shall be the duty of the said medical society, when convened, at their annual or semi-annual meeting, to appoint from each society that now is, or hereafter may be organized, in any of the counties of this state, three censors to examine any applicant who may apply to the president or vice-president of said county society for examination, of which three, the president or vice-president always to be one, who shall proceed to examine the applicant or applicants, without delay; and their approving signatures shall be necessary to make valid each certificate, to the presiding officer of the medical society of the state of New-Jersey, for a license, who shall thereafter immediately license the said person, so producing said certificate, to practice physic and surgery within this state.

3. *And be it enacted,* That any person now lawfully practising physic or surgery, or who shall be licensed as by this act directed, shall deliver his account or bill of particulars, to all patients or their lawful representatives respectively, in plain English words, or as nearly so as the articles will admit; and the said patients, or their lawful representatives respectively, may, by appearing before any court having jurisdiction, either by consent, or in obedience to process issued therefrom, and upon giving security to appear at any time of adjournment, if required by law, require the taxation of the said bill; and for this purpose the said court may adjourn the trial of the said issue between the said parties, a sufficient time to procure said taxation; and the party complaining may then apply to any justice of the supreme court, or to any judge of a court of common pleas of the county where such patient, his or her representatives may reside; and

the said justice or judge, after calling to his assistance such person or persons skilled in medicine or surgery, as the said justice or judge shall think proper, shall tax the said bill, and certify what in his opinion is justly due: *Provided*, That the complainant shall give at least five days notice to the opposite party, of the person before whom, the place where, and the time when the said bill will be taxed; which notice shall be given, and the taxing done, before the said time to which the said cause shall be adjourned.

1818.

Proviso.

4. *And be it enacted*, That the seventh section, and so much of the before recited act of incorporation, as comes within the purview of this supplement, be, and the same are hereby repealed.

Section repealed.

AN ACT constituting courts for the trial of small causes.

PAM. 56.

Passed the 12th of February, 1818.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every suit of a civil nature at law, where the debt, balance, or other matter in dispute, does not exceed, exclusive of costs, the sum or value of one hundred dollars, shall be, and hereby is made cognizable before any justice of the peace of any county in this state, who is hereby authorized to hold a court within such county, to hear, try and determine the same according to law, although the cause of action did not arise in said county; and further, that the said court shall be a court of record, and vested for the purposes aforesaid, with all such power as is usual in courts of record of this state: *Provided always*, That this act shall not extend to any action of replevin, slander, trespass for assault, battery or imprisonment, or to any action, wherein the title to any lands, tenements, hereditaments or other real estate, shall or may in anywise come in question.

What suits cognizable before a justice.

Proviso.

2. *And be it enacted*, That the territorial jurisdiction of every justice of the peace, under this act, shall be co-extensive with the limits of the county, for which he is appointed and commissioned; that his writs, precepts and process, shall run in and through such county, and that he may, in causes pending before him, award writs of subpoena ad testificandum, into other counties of this state.

Extent of jurisdiction.

3. *And be it enacted*, That the constables of the several townships in such county, shall be the ministerial officers of the said court, and that it shall be the duty of said constables to execute within the county, all precepts, summons, warrants, writs and other process, issuing out of the said court, and to them and any of them directed or delivered, and make return thereof, and to perform all matters, acts and things appertaining to their offices aforesaid.

Duty of constables.

4. *And be it enacted*, That all such precepts, summons, warrants, writs, and other process, shall be tested the day on which

See act, 12th of June, 1820.

1818. they are respectively issued, and shall be signed and sealed by the justice who issued the same.

First process.

5. *And be it enacted*, That the first process which shall be issued against any defendant by virtue of this act, shall be a summons or a warrant, in nature of a *capias ad respondendum*, as the case may require, but the plaintiff may, notwithstanding, in any case make use of the former.

The summons, and how to be served.

6. *And be it enacted*, That the summons to cite the defendant to appear before the said justice, shall specify a certain place and time, not less than five, nor more than fifteen days from the date of such process, and shall be served at least five days before the time of appearance mentioned therein, by reading the same to the defendant, and delivering to him a copy thereof, when required, if he or she shall be found, and if not found, by leaving a copy thereof at his or her house or place of abode, in presence of some free person of the family, of the age of fourteen years, who shall be informed of the contents thereof; and the constable serving such summons shall, on the oath of his office, endorse thereupon the time and manner he executed the same, and sign his name thereto.

Defendant not appearing, justice may proceed to hear.

7. *And be it enacted*, That if the defendant does not appear at the time and place expressed in such summons, and it shall appear by the return endorsed thereon, that the summons was duly served, and no sufficient reason be assigned to the justice why the defendant does not appear, then the said justice may proceed to hear and determine the cause, in the absence of such defendant.

8. *And be it enacted*, That the process which shall be used by virtue of this act, in cases where the defendants are freeholders, and residents in the county where such process shall be issued, and in cases wherein the defendants cannot be held to bail, shall be a summons.

When a warrant may issue against a freeholder.

9. *Provided always, and be it further enacted*, That if any plaintiff, his attorney or agent, shall prove, either by his or her own oath or affirmation, or by the oath or affirmation of any indifferent person, to the satisfaction of the justice, that if the process be by summons against such freeholder, the plaintiff will be in danger of losing his or her debt or demand, or doth really believe that such freeholder will abscond or depart, or remove from the county wherein he or she resides, before the return day of such summons, then it shall be the duty of the said justice to issue a warrant against such freeholder.

In what cases a warrant may issue, and proceedings thereon.

10. *And be it enacted*, That the warrant commanding the defendant to be arrested, may, under this act, be used in all cases where the defendant is not a freeholder, residing in such county, and can by law be held to bail, and shall be returnable forthwith after service thereof; and the constable serving said warrant shall, according to the tenor thereof, forthwith convey the said defendant before the justice who issued the same, who shall thereupon, at his discretion, either cause the said defendant to enter into recognizance in the manner hereinafter mentioned, or, on neglect

1818.

or refusal, shall command the said constable to convey the said defendant to the gaol of the county, to be there detained in custody, until time may be had for the hearing or trial of the cause, not exceeding three days, from the time of the return of the said warrant, or such justice may direct the said constable to hold the said defendant in custody, until the plaintiff shall be notified and have time to appear and proceed to such hearing or trial; and the constable who served the said warrant as aforesaid, shall, on the oath of his office, endorse thereon the execution of the same, and sign his name thereto: *Provided always*, That if any person or persons whatsoever, shall hereafter be arrested by virtue of a warrant granted by a justice of the peace, in a cause of a civil nature, it shall be lawful for the constable who served the same, to permit the defendant to enter into bond to the plaintiff, with a good and sufficient freeholder, to the amount of the debt or damages and costs endorsed on the warrant, for his, her, or their appearance on the day and hour mentioned in the bond, not more than eight days (excluding Sundays) from the service of the warrant. The bond to be entered into by the defendant, shall be in the form and to the effect following, to wit: We, A. B. and C. D. do hereby acknowledge ourselves indebted to E. F. in the sum of to be paid to said E. F. on the following conditions: that if the said A. B. shall be and appear before

one of the justices of the peace of on the day of at o'clock noon, and answer unto the complaint of the said E. F. then this bond to be void, or else to be and remain in full force and virtue. In witness whereof we have hereunto set our hands and seals, the day of in the year of our Lord one thousand eight hundred and . Sealed and delivered in the presence of G. H., I. K. Signed A. B. and C. D. Which bond the said constable is hereby ordered and directed, when taken, to deliver to the justice on the return of the warrant, to be by him filed in his office, to and for the use of the plaintiff, for which service the constable shall be entitled to twenty-five cents cost, to be paid by the defendant, and not recoverable by him from the plaintiff. And in all cases, the said constable shall attend at the said justice's court, on the day and hour mentioned in said bond, to be there and then ready to secure and take into his custody, the said defendant. And if the said justice shall not be found at his dwelling, or usual place of holding trials, the defendant shall be permitted to renew his bond, with sureties as aforesaid, for his appearance at some future day, not exceeding ten.

11. *And be it enacted*, That the said justice shall enter in the body of every summons or warrant, the sum demanded, (and endorse the same, with costs, on the said summons or warrant) which he shall issue by virtue of this act; and if the defendant think proper to pay such debt, damages or demand, with costs, so entered or endorsed, without any further proceedings in the cause, then it shall be lawful for the constable to receive the same, and his receipt shall be a full discharge to such defendant from such debt, damages or demand and costs aforesaid; and if

What to be
endorsed on
summons or
warrant.

1818.

Constable
liable.

any constable shall not pay the money so by him received for such debt, damages or demand, to the justice issuing such process, or to the plaintiff in the said process, or his legal representative, within fifteen days after he shall have received the same, then such constable shall be liable to pay to such plaintiff or his legal representative, the amount of the said debt, damages or demand, with interest, to be recovered by action of debt, with double costs.

Recognizance
and form.

12. *And be it enacted*, That the recognizance directed in the tenth section of this act, shall be entered into by the defendant, with at least one surety, having sufficient freehold, and residing in the county, to the plaintiff in the said action, in the amount of the demand specified in the warrant, according to the effect and meaning of the following form, that is to say:

county, to wit:

Whereas A. B. hath been arrested and is now in custody, by virtue of a warrant issued by C. D. one of the justices of the peace in and for the said county, at the suit of E. F. in an action of _____ for the sum of _____. Now be it remembered, that on the _____ day of _____ in the year of our Lord, one thousand eight hundred and _____ the said A. B. and G. H. of the county aforesaid, personally appeared before me the said C. D. and jointly and severally acknowledged themselves to owe to the said E. F. the sum of _____ to be made and levied of their several goods and chattels, and in want thereof, of their bodies, upon condition, that if the said A. B. shall not appear on the _____ day of _____ next, before the said justice, or if he does appear and is condemned in the said action, at the suit of the plaintiff, that he shall pay the costs and condemnation money, or surrender him up to the constable, on the execution to be thereafter issued against him, on the day judgment shall be obtained, and if he fail so to do, that he the said G. H. will pay the said costs and condemnation money for him, and suffer judgment to be entered up against him for the same.

Acknowledged the day and year last abovesaid, before me C. D. one of the justices of the peace in and for the said county of _____.

And every justice of the peace is hereby empowered and directed to take such recognizance, which shall remain with such justice, for the benefit of the plaintiff in the suit.

Defendant not
appearing, the
justice may
proceed.

13. *And be it enacted*, That if the defendant does not appear at the time and place expressed in such recognizance, and no sufficient reason shall be assigned to the justice why the defendant does not appear, then the said justice may proceed to hear and determine the cause, in the absence of such defendant.

State of de-
mand when to
be delivered.

14. *And be it enacted*, That the plaintiff in such suit shall, on or before the return day of the said summons, or on the return of the warrant, or at the time of appearance specified in the recognizance, deliver, or cause to be delivered, to the justice before whom the action is to be tried, a copy of his or her account or state of demand against the defendant, and in default thereof, the said plaintiff shall be nonsuited, with costs; and if the defendant have any account or demand against the plaintiff, shall be permit-

ted to discount or set off the same against the account, debt or demand of such plaintiff; but such copy of his or her account, or state of his or her demand, so intended to be set off, shall be delivered to the said justice, on or before the return day of the summons; or if on a warrant, then at the time of hearing of the cause; and in default thereof the said account or demand shall not be received in evidence on the trial of the said cause; but if the said warrant shall not have been executed three days prior to the day of hearing, then the said defendant, if he or she have any account or demand to set off and will enter into recognizance, as directed by the twelfth section of this act, shall be allowed further time, not exceeding three days, to deliver to the said justice such copy of his or her account or state of demand as aforesaid.

1818.

Defendant's account to be set off; when to be delivered.

15. *And be it enacted*, That if any defendant neglect or refuse to deliver a copy of his or her account or state of demand, against such plaintiff, he or she shall for ever thereafter be precluded from having or maintaining any action for such account or demand, or from setting off the same in any future suit: *Provided always*, That where the balance found to be due to such defendant exceeds the sum of one hundred dollars, then the said defendant shall not be precluded from recovering his or her account or demand against such plaintiff, in any other court of record having cognizance of the same.

In what cases defendant precluded.

Proviso.

16. *And be it enacted*, That when the parties in any suit to be instituted by virtue of this act, shall appear at the place and time expressed in the summons, or at the return of the warrant, or at the time of appearance mentioned in the recognizance, the said justice shall proceed to hear or examine their respective allegations and proofs, unless he shall think it proper to adjourn the trial.

When justice shall hear the cause.

17. *And be it enacted*, That any justice of the peace, before whom a suit is instituted by virtue of this act, may, to prevent fraud or surprise on either side, or on reasonable cause being assigned by or in behalf of either party, adjourn the trial to any time not exceeding fifteen days from the return day of the summons, or, if the process be by warrant, from the time when the same was returned, or from the time of appearance mentioned in the recognizance, except where the applicant for such adjournment shall make oath or affirmation, that he cannot safely go to trial for want of a material witness, whom he shall name, being absent and out of this state, and then such justice may postpone the trial to any time not exceeding three calendar months from the return day of the summons: *Provided*, That if the process is by warrant, the defendant shall, previous to such adjournment, if required by the justice, enter into recognizance to the plaintiff, as in and by this act is before directed: *Provided also*, That if either of the parties to a suit, hereafter brought before a justice of the peace, cannot, on the day of the first adjournment, safely go to trial for the want of a material witness in the cause, whom he shall name, and thinks he can produce on a future day, and shall file an affidavit thereof with the justice, then the justice

Trial may be adjourned.

See section 5, act November 17, 1820.

How obtained

1818.

may adjourn the trial to any future day, not less than five nor more than thirty days, (excluding Sundays) from the day of such adjournment, on payment of the cost by the party who makes application for the same.

Action by consent.

18. *And be it enacted*, That where parties agree to enter, without process, any action before a justice of the peace, to the decision of which he is competent, if process had been executed, such court shall proceed thereon to final judgment and execution, in the same manner as if a summons or warrant had been issued and duly served. But if judgment by confession shall be entered against the defendant, unless an affidavit shall first be made, as directed in the first and third sections of an act, entitled "An act to prevent the fraudulent confessions of judgments," passed January the twenty-ninth, in the year of our Lord, one thousand eight hundred and seventeen, (which affidavit may be taken, and if taken shall be filed and preserved by the said justice) such judgment shall not operate or have any effect against any person or persons not parties in said action, but shall be binding and have its full effect, so far as relates to the parties in the suit only.

Jury may be demanded, and when.

19. *And be it enacted*, That in every action which shall be brought before any justice of the peace, by virtue of this act, it shall and may be lawful for either of the parties, after the defendant has appeared or put in his plea to such action, and before the said justice has proceeded to inquire into the merits of the cause, to demand a trial by jury, which the said justice is hereby required to grant, and thereupon a venire shall be issued to summon a jury of six men, and no more, if the debt or demand do not exceed the sum of twenty-five dollars, or a jury of twelve men, and not less, if the debt or demand exceed the sum or value of twenty-five* dollars, being citizens of this state, above the age of twenty-one years, and under the age of sixty-five years, and freeholders in the said county where the said cause is to be tried, and in no wise akin to the plaintiff or defendant, nor interested in the suit, to be and appear before the said justice at such time and place as shall be expressed in the venire, to make a jury for the trial of the action, between the parties mentioned therein; and the constable shall, at the return of the said venire, return, annexed thereto, a panel containing the names of the jurors whom he shall have summoned by virtue thereof. And if on the return of the venire it shall appear, that one or more of the jurors are disqualified to serve, or do not appear, then it shall be lawful for the constable who served the same, by order of the court, immediately to summon others, who shall serve in their stead.

Who may be jurors.

Italic, repealed and supplied by act, 13th June, 1820.

* Sixteen, see 4th sec. supplement 13th June, 1820.

Who to pay the costs of the jury.

20. *And be it enacted*, That when either of the parties to a suit before any justice of the peace, shall demand a jury of twelve men, and such jury shall find a sum in favor of such applicant, above five, and not exceeding twenty-five dollars, then such applicant shall pay one half of the costs of such jury, and if the sum found by such jury, in favor of such applicant, be five dollars or under, then he shall pay the whole costs of such jury; and when either party shall demand a jury of six men, and such

jury shall find a sum in favor of such applicant, under five dollars, then the said applicant shall pay the costs of such jury.

1818.

21. *And be it enacted*, That to the jurors and each of them who shall be returned to try the said cause as aforesaid, the said justice shall administer the following oath or affirmation:

You do swear in the presence of Almighty God, (or do affirm, as the case may require) that you will well and truly try the matter in difference between plaintiff, and defendant, and a true verdict give, according to evidence.

Oath or affirmation of jurors.

That to every witness produced at the said trial, the justice shall administer the following oath or affirmation:

You do swear in the presence of Almighty God, (or do affirm, as the case may require) that the evidence you shall give to the court and jury in this matter in difference between plaintiff, and defendant, shall be the truth, the whole truth, and nothing but the truth.

Of witness.

And that to the constable who shall be appointed to attend the jury, the said justice shall administer the following oath or affirmation:

You do swear in the presence of Almighty God, (or do affirm, as the case may require) that you will, to the utmost of your ability, keep every person sworn (or affirmed) on this jury, together in some private or convenient place, without meat or drink, (water excepted) that you will not suffer any person to speak to them, nor speak to them yourself, except by order of the court, unless it be to ask them whether they have agreed on their verdict, until they have agreed on their verdict.

Of constable.

22. *And be it enacted*, That every person summoned as a juror, or subpoenaed as a witness, who shall not appear, or appearing, shall refuse to serve or give evidence in any such action, shall forfeit and pay for every such default or refusal, unless some reasonable cause be assigned, such fine, not exceeding twenty dollars nor less than one dollar, as the said justice shall think proper to impose; and such justice is hereby authorized and required to issue an execution, directed to any constable of the said county, to levy the same of the goods and chattels of the offender, which fine, when recovered, shall be applied by the said justice to the use of the said county.

Juror or witness not appearing, to be fined.

23. *And be it enacted*, That if the plaintiff, other than the executors or administrators, in any such action, shall be nonsuited, or shall discontinue or withdraw his action, without the consent of the defendant, then judgment shall be given against such plaintiff, for the costs which have accrued, or if such plaintiff shall appear to owe, or be indebted to the defendant, then judgment shall be given against him for the debt or damages, and costs, as the case may require.

Plaintiff in certain cases, to pay costs.

24. *And be it enacted*, That when judgment shall be given against the plaintiff or defendant, by virtue of this act, the said justice shall grant execution thereupon, commanding the constable to levy and make the debt or damages, and costs, of the

Execution to issue, and against what.

1818.

Italic, repealed by act of June 13, 1820.

When against freeholders.

goods and chattels of the party, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of such party, and convey him to the gaol of the county: *Provided always*, That no execution shall issue against the body of any man having a family, or against the body of any female, when the debt does not exceed ten dollars: *And provided always*, That when judgment shall be obtained against executors or administrators, execution shall issue thereon, in the same manner as it is issued against them in the other courts of law of this state: *And provided also*, That when any judgment given against any freeholder, by virtue of this act, shall not be more than fifteen dollars, nor less than five dollars, execution shall not issue until after one month from the time of such judgment rendered; and when the judgment shall exceed fifteen, and not exceeding sixty dollars, no execution shall issue until after three months from the time of the render of such judgment; and when the judgment shall exceed sixty dollars, no execution shall issue until after six months from the time of the rendering of such judgment, unless the party in whose favor judgment may be given, shall make it appear to the satisfaction of the justice, either on his or her own oath or affirmation, or on the oath or affirmation of some indifferent person, that he or she is in danger of losing his or her debt or damages, if such delay of execution be allowed, which oath or affirmation the said justice shall reduce to writing, in the form of an affidavit, and the same shall be signed by the person making it, and filed by the justice in his office, in which case the said justice shall issue execution immediately, as herein before directed, unless the party against whom such judgment is given, shall thereupon give security to the adverse party, for the payment of the debt, or damages and costs, within the month, three months, or six months, (as the case may be) in this section limited. *And further*, It is the true intent and meaning of this act, that if any defendant shall appear at the return of the summons or warrant, or by consent without process, or on the day that judgment shall be rendered, and procure a good and sufficient freeholder, resident in the county, to join with such defendant in a confession of judgment, to the adverse party, with costs, then such defendant shall be entitled to all the privileges which any freeholder is entitled to by virtue of this act; but when any process is by summons, the justice may consider the defendant a freeholder, if not made satisfied by the plaintiff to the contrary.

Proceedings in selling the goods of the debtor, and what reserved.

25. *And be it enacted*, That the constable, who by virtue of such execution, levies on any goods and chattels, shall give notice by advertisements, signed by himself, and put up in three of the most public places in the township where they were taken, of the time and place they will be exposed to sale, at least five days before the time appointed for selling them, and therein describe the goods and chattels so taken; and shall, at the time and place so appointed, expose them to sale by public vendue, and strike them off to the highest bidder, and pay the money thence arising to the plaintiff, or in case of his absence to the justice, and with-

1818.

in thirty days from the time he shall receive the execution, make return to the justice who issued the same, of the proceedings had thereon, and the said justice shall make a record thereof: *Provided*, That one bed and bedding, the property of any debtor having a family, shall be reserved for the use of the family against all creditors, and shall not be liable to be seized or taken by virtue of any process.

26. *And be it enacted*, That in all cases where any constable shall, by virtue of any writ of execution or attachment, issuing out of this court, levy on, attach, or take into his possession, any goods or chattels, which shall be claimed, by notice in writing, delivered to said constable, by any other person or persons than the defendant, he shall immediately, upon such claim, delay his sale of the same for the space of ten days, that the said claimant or claimants may, within the said term, apply to some justice of the peace within or near the township where such goods or chattels were so seized, for a venire to summon a jury of six lawful men as jurors, to try the right of such claimant or claimants to said property, and it shall be lawful for such justice of the peace to issue the same, and direct a return thereof to be to him made, and to proceed therein as in other cases of trials by jury, but the claimant or claimants shall, in all cases, give notice in writing, to the plaintiff, of the time and place of the said trial.*

Manner of proceeding in case goods levied on are claimed as not belonging to the defendant.

27. *And be it enacted*, That the verdict of such jury shall protect the said constable from any action for taking and seizing such property, or delivery thereof to the claimant; and if the said property shall be found to belong to the said claimant or claimants, the said constable shall proceed no further with the same; but if it shall be found to belong to the defendant, he shall proceed to dispose of the same, as is directed in such process; and the costs attending such trial shall be taxed by the said justice as in other cases, and shall be paid by the plaintiff at whose suit the said property was taken and seized, if the said claimant or claimants obtain a verdict in his, her, or their favor; and by such claimant or claimants, if the verdict is found against him, her, or them: *Provided*, That if the plaintiff, upon notice being given to him as aforesaid, shall indemnify the constable against the demand of the claimant, then he shall suspend any further proceeding therein, and proceed to sell.

The constable protected.

28. *And be it enacted*, That for want of goods and chattels whereon to levy, the said constable shall, according to the tenor of the said execution, take the body of the person against whom the said execution is issued, and convey and deliver him to the keeper of the common gaol of the county, who is hereby commanded to keep such person in safe custody, in the common gaol aforesaid, until the debt or damages, with costs, be fully paid, or until he be thence delivered by a due course of law: and the said constable shall, at the same time, deliver to the said gaoler a copy of said execution, and shall take said gaoler's receipt upon the execution, and return the same to the justice who issued it,

Duty of the constable on taking the body of a debtor.

* See first section of supplement, June 13, 1820.

1818.

*Italic, repeal-
ed by act of
June 13, 1820.*

*When against
freeholders.*

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1818.

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Manner of proceeding in case goods levied on are claimed as not belonging to the defendant.

27. *And be it enacted*, That the verdict of such jury shall protect the said constable from any action for taking and seizing such property, or delivery thereof to the claimant; and if the said property shall be found to belong to the said claimant or claimants, the said constable shall proceed no further with the same; but if it shall be found to belong to the defendant, he shall proceed to dispose of the same, as is directed in such process; and the costs attending such trial shall be taxed by the said justice as in other cases, and shall be paid by the plaintiff at whose suit the said property was taken and seized, if the said claimant or claimants obtain a verdict in his, her, or their favor; and by such claimant or claimants, if the verdict is found against him, her, or them: *Provided*, That if the plaintiff, upon notice being given to him as aforesaid, shall indemnify the constable against the demand of the claimant, then he shall suspend any further proceeding therein, and proceed to sell.

The constable protected.

28. *And be it enacted*, That for want of goods and chattels whereon to levy, the said constable shall, according to the tenor of the said execution, take the body of the person against whom the said execution is issued, and convey and deliver him to the keeper of the common gaol of the county, who is hereby commanded to keep such person in safe custody, in the common gaol aforesaid, until the debt or damages, with costs, be fully paid, or until he be thence delivered by a due course of law: and the said constable shall, at the same time, deliver to the said gaoler a copy of said execution, and shall take said gaoler's receipt upon the execution, and return the same to the justice who issued it,

Duty of the constable on taking the body of a debtor.

* See first section of supplement, June 13, 1820.

1818.

who shall make a record thereof in his docket: and if the said keeper shall suffer such person so committed to his custody, to go, or to be at large out of the said gaol, except by virtue of some writ of habeas corpus, before the said debt or damages, with costs, be paid, or he be thence delivered by a due course of law, then every such going or being out of the said gaol, shall be an escape, for which the sheriff shall be responsible to the plaintiff, to the amount of the debt or damages and costs, for which such person shall be committed, to be recovered by the said plaintiff, with costs, by action of debt.

How long execution to be in force.

29. *And be it enacted*, That every execution which shall or may be issued by any justice of the peace within this state, upon any judgment rendered in pursuance of this act, shall be in full force and operation against the goods and chattels levied on for the term of one year from the time of issuing the same, unless sooner satisfied; and all executions which shall remain unsatisfied for the space of one year thereafter, shall be null and void; but in case the said execution shall not have been duly paid or satisfied, within one year after the issuing thereof, the plaintiff or plaintiffs shall and may proceed by scire facias, to revive the judgment and obtain execution thereon, with costs, in the same manner as he or they might or could do by law, in case execution had not been issued upon any judgment which had been rendered for more than one year.

Priority of executions.

30. *And be it enacted*, That where one or more executions, issued by virtue of this act, shall have been levied by one or more constables, upon the goods and chattels of any defendant, the said executions shall have and obtain priority, according to the time of levying the same, and all surplus moneys arising upon any sale by virtue of any execution, shall be paid to the officer or person holding the next oldest execution, which shall have been levied as aforesaid, until all executions levied upon the goods and chattels of any defendant, at the time of the sale, upon the first execution, be satisfied, or so far satisfied, as these shall be proceeds for that purpose, according to their respective seniority as aforesaid; and in case two or more executions, at the suit of different plaintiffs, shall be levied at the same time, such execution or executions, shall have preference according to the time when they were received, which shall be noted on each execution by the constable, at the time of receiving the same; and if two or more executions shall have been delivered to a constable at the same time, against the same defendant, then the moneys arising from the sale, under or by virtue of the said executions, or either of them, shall, if not sufficient to satisfy both, or all of them, be applied towards the satisfaction of the several executions, in proportions to the sums due on them respectively.

Property levied upon to be inventoried.

31. *And be it enacted*, That it shall be the duty of the constable, to whom shall be delivered any execution, issued under the provisions of this act, to take an inventory in writing, of such and so much of the property of the defendant, as he means and intends to levy upon, which inventory and levy, and the actual time of making the same, shall be annexed to the said execution,

and signed by the said constable, under his oath of office, and shall at all times be received as evidence of the levy, and of the time of making the same, as contemplated by this act, and that the property so levied upon, shall be bound from the time of such levy, and not before.

1812.

32. *And be it enacted*, That if the constable to whom any execution is delivered, shall not perform the duties, or any of them, prescribed by this act, respecting such execution, such constable shall be liable to pay to the person in whose favor the said execution is issued, the debt or damages, and costs, or any of them mentioned therein, to be recovered by action of debt, with double costs, by the person so as aforesaid injured thereby; and when any constable shall have in his hands one or more executions, and not have performed the duty required of him by law on the same, he shall be liable to be prosecuted on such execution or executions, separately or jointly, by the person or persons in whose favor said execution or executions were issued, who may recover as aforesaid, in an action of debt, with double costs; and if it shall appear that the said constable has received the money, or any part thereof, on any execution for which a suit shall be brought, in that case he shall pay to the plaintiff treble costs, and when any judgment shall be had against any constable for any delinquency in his office, execution may be issued immediately against him for debt and costs.

Constable not doing his duty made liable.

33. *And be it enacted*, That when, in any action to be brought by virtue of this act, the defendant shall, as a justification, plead title to any real estate, in himself or another, under whom he acted or entered, such defendant shall commit the said plea to writing, and having signed the same, shall deliver such plea to the said justice, who shall countersign and deliver it to the plaintiff; and thereupon it shall and may be lawful to and for such plaintiff to commence and prosecute his action, against such defendant, in the supreme court of the state; and if in such action, the plaintiff recover any damages, he shall be entitled to and recover therewith, all costs of suit.

Plea of title of justification.

34. *And be it enacted*, That on every trial so to be had in such action, where title is pleaded, the plea, so as aforesaid signed by the said defendant, shall be conclusive evidence, that such defendant relied on his title by way of justification.

35. *And be it enacted*, That the said justice, to whom a plea of justification is tendered as aforesaid, shall, before he receive such a plea, require and obtain from the defendant a bond, with one good surety, being a freeholder in the said county, in the penalty of one hundred dollars, executed to the plaintiff, and conditioned, that if the said plaintiff shall commence such action before the next supreme court, the said defendant shall appear thereto, and put in special bail, within twenty days after the first day of the then next term of the said court, and shall pay such costs as may be awarded against him in the said action; and that in every case, in which such plea is tendered, and the defendant shall not forthwith enter into such bond to the plaintiff, the said justice shall proceed in the same manner as if such plea had not been tendered.

Bond required.

1818.

Appeal given
and upon
what terms.

See act, Nov.
17th, 1820.

36. *And be it enacted*, That from any judgment which may be obtained before any justice of the peace, except such as shall have been given on a verdict, or on report of referees, or by default, or in the absence or by the confession of the defendant, or on a debt, balance, demand or other matter in dispute, not exceeding three dollars, either party may appeal to the court of common pleas of the county, to be holden next after the rendering of such judgment; which appeal the said justice is hereby directed to grant, on the following, and no other terms, that is to say: the party demanding such appeal shall enter into bond to the other party, with at least one sufficient surety, being a freeholder in the county, and in double the sum for which such judgment was given, conditioned that the appellant shall appear and prosecute the said appeal in the said court of common pleas, shall stand to and abide the judgment of the said court, and pay such further costs as shall be taxed, if the judgment be affirmed.

Courts of com-
mon pleas to
determine ap-
peals.

37. *And be it enacted*, That the several courts of common pleas in and for the respective counties of this state, shall have cognizance of, and hear and determine all such appeals, in a summary way, and give judgment and award execution thereon, with costs, either on the affirmance or reversal of the judgment so appealed from; but the same, and no other documents, proofs and witnesses shall be produced and examined in the said court of appeals, as had been previously produced and examined in the said court below, except where the justice shall have admitted illegal or rejected legal evidence, and then such court of common pleas, on the hearing of the said appeal, shall reject such illegal evidence, so admitted, or admit such legal evidence, so rejected by the said justice.

Justice who
tried the cause
not to sit as a
judge.

38. *And be it enacted*, That no justice of the peace, who heard and determined the said cause, shall sit as a judge of any of the courts of common pleas, on the hearing and determining of the same cause on appeal, or give any opinion thereon.

Justice to
transmit pro-
ceedings to the
clerk of the
court.

39. *And be it enacted*, That the justice who grants an appeal as aforesaid, shall send a transcript of the proceedings and judgment in the said cause, under his hand and seal, together with the bond aforesaid, to the clerk of the court of common pleas to which such appeal is made, on or before the first day of the court next ensuing such appeal.

Rules of refer-
ence may be
entered.

40. *And be it enacted*, That in every suit to be instituted before any justice of the peace, by virtue of this act, and in every appeal to be made before any court of common pleas, it shall and may be lawful for such justice of the peace, or court of common pleas, as the case may be, with the assent and at the request of the parties, to enter rules of reference of the matters in difference, to such persons as shall be nominated and agreed upon by and between the parties; and the reference so made, shall and may be conducted in the same manner in all respects, as directed in the case of references by rule of court, in and by the act, entitled "An act for regulating references, and determining controversies by arbitration," and the report of the said referees, or the major part of them, whether in favor of the plaintiff or defen-

dant, appellant or appellee, shall be final and conclusive to the parties, judgment shall be entered thereon with costs, and execution issued accordingly.

1818.

41. *And be it enacted*, That it shall be the duty of every justice of the peace, before whom any suit shall be instituted, to enter in a book to be kept for the purpose, the names of the plaintiff and defendant, the style and nature of the action, the sum demanded, the time of issuing process, and when returnable, the return made thereto by the constable, when the copy of the account or state of the demand was delivered by the parties, or either of them, the time of taking the recognizance, the adjournment, the rule of reference, and report of referees, the jury, when and by whom demanded, the venire, when issued and how returned, the time of trial, and names of the jurors and witnesses, the admission of evidence objected to, and the rejection of evidence offered, the verdict and judgment, and when given, the execution, when issued, and its endorsement, and how returned by the constable, the appeal, when and by whom demanded, and all the proceedings before him had, touching the said suit, and further, it shall be the duty of such justice to grant to either party, when required, a certified copy of such proceedings.

In what manner the proceedings to be entered.

42. *And be it enacted*, That the book in which such proceedings shall be entered by any justice of the peace, shall, within one year after the death of the said justice, be deposited in the office of the clerk of the county wherein the said justice resided and held his commission, to be there kept as a public record; and if the executors or administrators of such deceased justice shall neglect or refuse to deliver the said book, at the expiration of the said term of one year, to the said clerk as aforesaid, he, she or they, so refusing or neglecting, shall forfeit and pay the sum of sixty dollars, to be recovered by action of debt, with costs, in any court having cognizance of the same, and paid, when recovered, to the collector of the county, for the use of the county, who is hereby authorized and required to prosecute for the same.

Book of proceedings where to be deposited after the death of the justice.

43. *And be it enacted*, That if any person shall institute a suit for any debt or demand made cognizable before a justice of the peace, in any other court than a court for the trial of small causes, and obtain a judgment thereon for any sum which without cost shall not exceed one hundred dollars, then such person shall not recover or have any costs in said suit, unless before the commencement of the suit he shall have taken an oath or affirmation before a justice of the peace, and filed the same in the clerk's office of the court in which such suit was instituted, stating, that he believes that the sum due, or the damages sustained, exceed one hundred dollars, and then, if he recover any sum whatever, the defendant shall be liable to pay costs.

Relative to costs on certain judgments.

44. *And be it enacted*, That whenever any bond, bill, note or other contract in writing, for the payment of any sum of money above one hundred dollars, shall by a bona fide payment of part

Balance due on bonds, &c. considered the real debt.

1818.

of the consideration money, the receipt whereof shall be endorsed thereon, or be set off, be reduced to the sum of one hundred dollars, or under, then the balance due on such deed or contract shall be considered the real debt, without regard to any kind of penalty expressed therein, and shall be recoverable before a justice of the peace, in the same manner as any other debt or demand of one hundred dollars, or under, is made recoverable by virtue of this act.

Penalties recoverable by virtue of a law, made cognizable before a justice.

45. *And be it enacted*, That every sum of money, or penalty, not exceeding one hundred dollars, to be sued for and recovered by virtue of any law of this state, in any court of record, or in any court having cognizance thereof, shall be, and hereby is made cognizable before any justice of the peace, in manner aforesaid.

46. *And be it enacted*, That no judgment, order or proceeding, to be had or made by virtue of this act, shall be removed by writ of error, but by certiorari only.*

Certiorari allowed, and the conditions.

See sec. 6, act Nov. 17, 1820.

47. *And be it enacted*, That no justice of the supreme court shall grant or allow any certiorari to remove any judgment, order or proceeding, to be had by virtue of this act, unless the party applying for such certiorari shall present to the said justice the reasons therefor, drawn up in writing and subscribed by himself or some attorney at law, and the same be deemed by the said justice to contain a probable cause for allowing such certiorari; and also, unless such applicant shall enter into bond to the other party in the sum of one hundred and fifty dollars, with one or more good surety or sureties, conditioned, that such applicant shall prosecute the said certiorari in the supreme court, shall pay the sum recovered in the court below, with interest and costs, if the judgment be affirmed, and shall, in all things, stand to and abide the judgment of the said supreme court respecting the judgment, order or proceeding given or made by the court below; which said bond shall likewise be tendered to the justice granting such certiorari, to be by him filed with the clerk of the supreme court, for the benefit of the obligee therein named, and on failure thereof no certiorari shall be allowed.

When to be determined.

48. *And be it enacted*, That such certiorari shall be determined and adjudicated upon by the supreme court, at the first term after due return thereof shall be made, or be dismissed with costs; unless the said court shall think proper to adjourn the same till the next term, for further argument and advisement.

Costs on affirmation of the judgment.

49. *And be it enacted*, That if any judgment, to be given by virtue of this act, shall, on removal by certiorari, be affirmed by the supreme court, the plaintiff in certiorari shall pay to the defendant all costs arising on such suit in the said supreme court, for which the party entitled to such costs, may have execution, to be issued out of the supreme court, against the body or goods and chattels of the adverse party; but if such judgment be reversed, then the plaintiff in certiorari shall not be entitled to any costs.†

* See supplement to practice act, 28th February, 1820.

† See act concerning judgments, &c., February 5, 1812, ante 557. p.

50. *And be it enacted*, That all attorneys at law, within this state, shall, for any debt, demand or damages, be liable to be sued before any justice of the peace, by virtue of this act, in like manner or form of action as other citizens of this state, not being attorneys, are liable to be sued before such justice, any plea of privilege or exemption to the contrary notwithstanding.

1818.

Attorney at law may be sued before a justice.

51. *And be it enacted*, That all suits brought or commenced before any justice of the peace in this state, on any bond or other specialty, note of hand, bill of exchange, book account, or any other demand founded on simple contract for the payment of money only, shall be in the name and style of actions of debt, any law, usage and custom to the contrary notwithstanding.

What suits, to be styled actions of debt.

52. *And be it enacted*, That if a material witness in an action instituted in said court, be in the state, but is ancient, or very infirm, or is sick, or is bound on a voyage, or is about to go out of the state, the deposition of such witness may, at the option of either party, be taken before a justice of the peace: provided the person, at whose request the deposition is to be taken, shall cause notice to be given to the adverse party of the time and place, and before whom the deposition shall be taken, immediately, or at such short day as the cause, in the opinion of the said justice, may require, to attend and be present at the taking thereof, and to put questions and cross-examine, if he shall think fit, and a deposition so taken and offered in evidence, shall be subject to the same rules and exceptions that the witness would be if personally present.

Deposition of witnesses who are infirm, &c. to be taken.

53. *And be it enacted*, That every person deposing, as last aforesaid, shall be carefully examined and cautioned, and sworn or affirmed to testify the whole truth, and shall subscribe the testimony by him or her given, after the same shall be reduced to writing, which shall be done only by the magistrate taking the deposition, or by the deponent, in his presence, and the deposition so taken, shall be retained by such magistrate until he deliver the same, with his own hand, into the court for which it was taken, or shall be by him, the said magistrate, sealed up, directed and transmitted to such court, and remain under his seal until opened in court, and, when so opened, the same shall be deposited in the office of the justice before whom the action shall be brought, there to remain of record, and that either of the parties in the said action or suit, may at his or her cost and charges, take copies of such deposition as soon as it is deposited in the office as aforesaid.

Manner of taking and transmitting such depositions.

54. *And be it enacted*, That it shall be the duty of the justice by whom any judgment shall have been rendered, and which shall have remained unsatisfied more than one year from its date, on application of the person in whose favor said judgment was rendered, his agent or attorney, to grant writs of scire facias to revive said judgment, directed to a constable, commanding the defendant to come before him at the time and place mentioned in the writ, not less than five, nor more than fifteen days from the date thereof, and shall be served at least five days before the

Judgments remaining unsatisfied more than one year, how recovered.

1818.

time of appearance mentioned therein, by reading the same to defendant, and delivering to him or her a copy thereof, when required, if he or she shall be found, and if not found, by leaving a copy thereof at his or her house or place of abode, in presence of some free person of the family, of the age of fourteen years, who shall be informed of the contents thereof.

Authorized to issue commissions for the examination of witnesses. See ante 437.

55. *And be it enacted*, That the provisions of the first, second and third sections of an act, to issue commissions for the examinations of witnesses, and to take their depositions in certain cases, passed the eighteenth of February, one thousand seven hundred and ninety-nine, be, and they are hereby extended to the courts for the trial of small causes, in this state.

Debtors having real property, but not personal, how creditors to proceed.

56. *And whereas* creditors may, in particular cases, be unable, in consequence of this act, to recover their just demands from persons who have real estates, but are possessed of no goods or chattels, or to a small and inadequate value, for remedy whereof—*Be it enacted*, That if any creditor shall, before any justice of the peace, declare on oath or affirmation, to be filed in the clerk's office, at the time of sealing the process, that he believes the debtor is not possessed of goods and chattels sufficient to satisfy his demand, then such creditor may prosecute an action for the same, in the court of common pleas, and if he obtain judgment thereon, the said court shall adjudge the defendant to pay the costs of such suit.

A justice of the peace not to be licensed to keep a tavern.

57. *And be it enacted*, That it shall not be lawful for the court of general quarter-sessions of the peace, or any other court having power to grant license to keep an inn and tavern, in any of the counties, cities, or towns corporate within this state, to grant a license to any person to keep an inn and tavern, who shall be at the same time a justice of the peace, or in virtue of his office, exercising the powers of a justice of the peace; and if any person shall be appointed a justice of the peace, or an officer with the power of a justice of the peace, in any of the counties, cities or towns corporate within this state, during the time that he holds a license to keep an inn and tavern, and accept of the said office, such license shall from thenceforth be absolutely void.

Constable to enter into bond with sureties.

58. *And be it enacted*, That every person who shall be elected or appointed to the office of constable, in any of the townships of this state, shall, before he enters upon the execution of his office, repair to the township committee, and thereupon enter into a bond to the inhabitants of the township, in their corporate name and capacity, with one or more sureties, to be approved of by the said committee, in such sum as the said committee shall direct, conditioned for the true and faithful performance of all the duties of his said office of constable, in the following or like form:

Form of bond.

Know all men by these presents, that we, A. B., C. D. and E. F. all of the township of _____ in the county of _____ in the state of New-Jersey, are held and firmly bound unto the inhabitants of the township of _____ in the county of _____ in the sum of _____ dollars, money of the United States, to be paid to the said in-

habitants of the township of _____ in the county of _____ their successors or assigns, to which payment well and truly to be made, we bind ourselves, and each of us for himself in the whole, our and every of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated the _____ day of _____ in the year of our Lord, &c.

1818.

The condition of this obligation is, that whereas the above bound A. B. was, at the last annual town-meeting of the township of _____ elected a constable of said township: now, therefore, if the said A. B. shall truly and faithfully perform all the duties enjoined on him as constable of said township, then the above obligation to be void, otherwise to be and remain in full force and virtue.

Signed, sealed and delivered, in the presence of

A. B. [L. S.]
C. D. [L. S.]
E. F. [L. S.]

Which bond shall be delivered to the clerk of the township, who is hereby directed and required to record and file the same in his office; and the said township committee are hereby directed and required, if need be, to prosecute the said bond, for and in behalf, and to the use of all and every person or persons whatsoever, who may have sustained loss by the neglect or misconduct of the said constable.

59. *And be it enacted*, That all suits or actions to be brought and prosecuted on constables' bonds, conditioned for the faithful performance of the duties of the office of constable, shall and may be brought and prosecuted in the supreme court, or any of the inferior courts of common pleas of this state, and the same shall be conducted and prosecuted in every respect, as suits on sheriffs' bonds are by law directed to be prosecuted, and the court before whom any judgment shall be obtained on any constable's bond as aforesaid, shall, from time to time, upon due notice, assess the damages which shall have been sustained by any person or persons, by reason of any neglect or default of the said constable, in his official duties, and the said court shall and may award execution thereon, with cost; *provided* the said assessment do not exceed the penalty of the said bond.

Bond where to be prosecuted.

60. *And be it enacted*, That in all cases where a suit shall be brought before any justice of the peace, upon any judgment which may have been rendered in favor of such plaintiff, before any justice of the peace of this state, and judgment be rendered in favor of said plaintiff, execution may issue immediately; *provided* the time herein before limited, for stay of execution upon such sum, shall have expired since the date of the first judgment, and if not, such further stay of execution shall be allowed, as with the time already passed since the date of the first judgment, will make up the time allowed for stay of execution on such sum, as is directed by the twenty-fourth section of this act.

When execution to issue on a judgment in a suit upon a former judgment.

61. *And be it enacted*, That no person holding the commis-

1818.

A judge, justice or constable, not permitted to prosecute or defend suits for others.

Penalty.

Proviso.

Mayor, recorder and aldermen to be justice of the peace.

sion of a judge or justice of the peace, under the government of this state, or the office of a constable, shall be permitted to appear and prosecute, or defend in any action hereafter to be brought, before any justice of the peace in this state, unless such judge, justice or constable shall be one of the parties on record in the cause; and any person holding the office of a judge, justice or constable as aforesaid, who shall appear and prosecute, or defend, in any action, before any justice of the peace in this state, contrary to the provisions of this act and section, shall forfeit the sum of fifty dollars, to be recovered by action of debt, with costs of suit, in any court having cognizance thereof, by and for the use of any person who shall prosecute for the same; *provided* such suit shall be commenced within six months after the offence shall have been committed: *Provided*, That nothing herein contained shall prevent a judge or justice from transacting the general concerns of a person who is absent and resident without this state.

62. *And be it enacted*, That the mayor, recorder and aldermen, of any city, borough or town corporate, or any and each of them, shall be deemed, esteemed and taken to be a justice of the peace, for the trial of cases hereby authorized within the intent and meaning of this act, but nothing herein contained shall be construed or taken to enlarge the territorial jurisdiction of the said several and respective offices; but the same shall be and remain co-extensive with the limits of the borough or city for which they are respectively appointed and commissioned.

63. *And be it enacted*, That in all actions which may be brought by virtue of this act, the following and no other fees shall be allowed:

Justices.

Justices' fees.

Sunmons,	twelve and a half cents.
Warrant,	twelve and a half cents.
Entering each suit,	ten cents.
Recognizance,	twelve and a half cents.
Entering every nonsuit,	ten cents.
Entering discontinuance,	four cents.
Venire facias,	twelve and a half cents.
Administering every oath or affirmation,	five cents.
Subpoena for every witness,	seven cents.
Swearing the jury,	twenty cents.
Entry of every verdict,	four cents.
Entry of every rule of reference,	twelve and a half cents.
Every copy thereof,	twelve and a half cents.
Entry of every judgment,	ten cents.
Every execution,	twelve and a half cents.
Recording return of execution,	nine cents.
Drawing, signing and sealing return to certiorari,	twenty cents.
Copy of proceedings when demanded by either party,	twenty-five cents.
Scire facias,	twelve and a half cents.
Every adjournment,	ten cents.

Each deposition taken under the *fiftieth** and *fifty-first*† sec-
tions of this act, one dollar.

1818.

Every affidavit, twelve and a half cents.

For issuing a commission under the *fifty-third*† section of this
act, to be paid by the party applying, one dollar.

Recording return of said commission, twelve and a half cents.‡

Constables.

Serving every summons, whether against one or more persons,
for each person, forty cents.

*Italic, repeal-
ed and suppli-
ed by act, 13th
of June, 1820.*

Serving every warrant, whether against one or more persons,
for each person, forty-five cents.

*Serving every scire facias, whether against one or more per-
sons, for each person,* thirty cents.

Constables' fees.

Serving every subpoena, twenty-five cents.

Summoning every jury of six men, thirty cents.

Summoning every jury of twelve men, sixty cents.

Attending jury till agreed on their verdict, twenty-five cents.

Serving every execution, fifty cents.

In addition to which, two cents on each dollar secured to the
plaintiff.

Advertising property under execution, twenty-five cents.

Selling property under execution, twenty-five cents.

For every copy of the execution delivered to the gaoler,
twelve and a half cents.

Jurors.

For all causes tried, twelve and a half cents a man.

When summoned to attend, and cause not tried,
six and a quarter cents a man.

Jurors' fees.

Witnesses.

*For their services under the *fiftieth** and *fifty-first*† sections of
this act,* fifty cents.

Witnesses' fees

*For all other services the same fees as are or shall be allowed
in causes before the court of common pleas: Provided, That no
fees shall be allowed for the service of any subpoenas, for more
than two witnesses, nor shall fees be allowed to more than two
witnesses for each party in a cause.*

64. *And be it enacted,* That on all appeals as aforesaid, heard
and determined in the court of common pleas, the following and
no other fees shall be allowed:

Courts.

Every appeal heard and determined, fifty cents. Court fee.

Clerks.

Entering action, seven cents. Clerks' fees.

Filing bond, seven cents.

Filing transcript, seven cents.

Read, *fifty-second, †fifty-third, ‡fifty-fifth. See act, June 13, 1820.

§ See act, Nov. 30, 1801.

1818.	Entering defendant's appearance,	seven cents.
	Every subpoena,	seven cents.
	Entering judgment,	seven cents.
	Every witness sworn or affirmed,	seven cents.
	Every order or rule of court,	seven cents.
	Every execution,	forty cents.
	Entering and filing execution,	twelve cents.
	<i>Constables.</i>	
Serving a subpoena.	Serving every subpoena,	twenty-five cents.
	<i>Cryers.</i>	
Cryers' fees.	Every appeal,	nine cents.
	Calling and swearing each witness,	four cents.

65. *And be it enacted*, That the act, entitled "An act constituting courts for the trial of small causes," passed the fifteenth day of March, one thousand seven hundred and ninety-eight, and the several "supplements," and "additional supplements," thereto, and the second section of an act, entitled "An act to prevent the fraudulent confessions of judgments," passed the twenty-ninth day of January, one thousand eight hundred and seventeen, and all acts and parts of acts coming within the purview of this act, and contradictory thereto, be, and the same are hereby declared to be repealed, from and after the first day of July next, at which time this act shall operate and take effect.*

* See supplement, June 13, 1820.

RAM. 99.
See ante 244.

A farther supplement to the act, entitled "An act for the punishment of crimes," passed March eighteenth, one thousand seven hundred and ninety-six.

Passed the 12th of February, 1818.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if any person shall steal of the money or personal goods and chattels of another, under the price or value of ten dollars, he or she so offending shall be deemed guilty of a misdemeanor, and may be prosecuted, tried and convicted, in the manner prescribed by the existing laws for cases of larceny under the value of six dollars, and any person convicted of such offence shall not be confined in the state-prison, but shall be punished in the county where the conviction may be had, by fine or imprisonment, or by imprisonment at hard labor in the common gaol of the county, or both, or by whipping, at the discretion of the court; the fine not to exceed fifty dollars, nor the imprisonment the term of three months, nor the lashes to exceed thirty-nine.

Stealing under the value of ten dollars.

How punished

See act 31st May, 1820.

2. Repealed by act, May 30, 1820.

AN ACT to constitute and appoint trustees for the security and management of the fund for the support of free schools.

1818.

PAM. 100.

Passed the 12th of February, 1818.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the governor of this state, the vice-president of council, the speaker of the house of assembly, the attorney-general, and the secretary of state, and their successors in office for the time being, be, and they are hereby constituted and appointed trustees of the fund for the support of free-schools in this state, by the name, style and title of "The Trustees for the support of Free Schools," arising either from appropriations heretofore made, or which may hereafter be made by law, or which may arise from the gift, grant, bequest or devise of any person or persons whatsoever.

Trustees appointed.

2. And be it enacted, That the public stock and moneys appropriated by an act passed the ninth day of February, eighteen hundred and sixteen, entitled "An act directing the investment of certain moneys belonging to this state," and by an act passed the twelfth day of February, eighteen hundred and seventeen, entitled "An act to create a fund for the support of free schools" shall constitute the fund in the hands of the trustees appointed by the first section of this act, and shall, within three months after the passing of this act, be transferred to the trustees aforesaid, by the treasurer of this state, to be held by the said trustees and their successors in office, for the time being, in trust, the interest and dividends arising therefrom to be applied by the said trustees, or a majority of them, and by their successors, for the time being, for the support of free schools in this state, in the mode hereafter to be prescribed by any act or acts of the legislature, and for no other use or purpose whatsoever, which fund is hereby declared to consist of the following description of stock and other public property, viz.:

Fund declared

The six per cent. stock of the United States, purchased in pursuance of the direction of the act passed the ninth day of February, one thousand eight hundred and sixteen, estimated at fifteen thousand dollars.

The shares of the state in the stock of the Newark Turnpike Road, estimated at twelve thousand five hundred dollars.

The balance due on the old six per cent. stock of the United States, on the twelfth day of February, one thousand eight hundred and seventeen, estimated at ten thousand, six hundred, fifty-four dollars, seventy-eight cents.

The three per cent. stock of the United States, belonging to this state on the twelfth day of February, one thousand eight hundred and seventeen, ten thousand, one hundred, forty-three dollars and eighty cents, estimated at five thousand, seventy-one dollars, ninety cents.

Amount of cash received by the treasurer for interest and re-

1818. imbursement of the old six per cent. stock of the United States, since February ninth, one thousand eight hundred and sixteen, estimated at five thousand, eight hundred, forty-nine dollars, sixty-six cents.

The shares of the state in the Trenton Banking Company, estimated at thirty-six thousand dollars.

The shares of the state in the Cumberland Bank, estimated at two thousand dollars :

Together with the amount of any dividends or interest which may have been received by the treasurer on the above mentioned stock, or any part thereof, since the ninth day of February, one thousand eight hundred and sixteen.

Additional
fund.

3. *And be it enacted*, That the funds mentioned in the preceding section, together with one tenth part of the amount of the state tax which shall be received by the treasurer for the year one thousand eight hundred and seventeen, all moneys which shall be received by the treasurer, in payment of the principal or interest of any of the public stock of the United States, and of the bank or turnpike stock belonging to the fund for the support of free schools, all moneys which may be received by the treasurer for the sale of the banking-house and lot in the city of Jersey, the amount of any future appropriations to the said fund, made by any law of this state, and the amount of all gifts, grants, bequests or devises hereafter made by any person or persons to the said trustees, for the purposes contemplated by this act, shall be vested by the treasurer of this state, under the direction of the said trustees, or a majority of them, in public stock or on private security, the interest thereof to be applied to the support of public schools, in the mode which may hereafter be directed by law, and to no other use or purpose whatsoever: *Provided*, That the trustees shall have power, until otherwise directed by the legislature, to put out to use, with sufficient security, all moneys in the fund, whether principal or interest, and the legislature reserve the power to change the existing fund in their hands, for any public stock, which in their opinion would be more productive, and also to change or dissolve the trust hereby created at their pleasure, and an account of the management of the said fund shall be laid before the legislature, with the annual statement of the treasurer's accounts: *And provided*, That for no services to be performed, either by the said trustees or treasurer in pursuance of the directions of this act, shall any compensation be required.

Power of the
trustees over
the fund, and
reservation of
the legislature.

See additional act, passed February 18. 1819.

1818.

AN ACT to repeal the several insolvent laws passed since the eighteenth day of March, one thousand seven hundred and ninety-five, and to revive the act, entitled "An act for the relief of persons imprisoned for debt," passed the eighteenth day of March, one thousand seven hundred and ninety-five, and for other purposes.

PAM. 53.

Passed the 14th of February, 1818.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the several acts and supplements to acts, for the relief of persons imprisoned for debt, passed since the eighteenth day of March, one thousand seven hundred and ninety-five, be, and the same are hereby repealed; and the act, entitled "An act for the relief of persons imprisoned for debt," passed the eighteenth day of March, one thousand seven hundred and ninety-five, and every part thereof (except as hereafter provided) is hereby revived and declared to be in full force.

See ante 216.

2. And be it enacted, That the first section of the said act shall be so construed hereafter, as to extend to all persons imprisoned either for debt or damages; that the courts of common pleas of the several counties in this state, shall not receive any petition or application for the benefit of the said act, except at the regular and stated terms of the said courts respectively.

Petitions to be received only at stated terms.

3. And be it enacted, That the time appointed by the court, to hear what can be said for or against the liberation of any debtor, shall in no case be less than forty days after the time of making the application, for the benefit of the said act; and so much of the second section of the aforesaid act, as requires a debtor to advertise in any newspaper printed out of this state, the time and place appointed by the court when and where a hearing will be had respecting his or her discharge from confinement, is hereby repealed.

Time of hearing.

4. And be it enacted, That one cow, and one bed and bedding, the property of any debtor having a family, shall be reserved for the use of the family, against all creditors, and shall not be liable to be seized or taken by virtue of any process whatever, issued out of any court in this state, for any debt contracted after the passage of this act.

Property reserved for the family.

5. And be it enacted, That if any person who may hereafter give and enter into any bond to any sheriff or other officer, to keep the prison limits, in pursuance of the one hundredth section of the act, entitled "An act to regulate the practice of the courts of law," shall voluntarily and intentionally walk, or go out of, and beyond the prison limits, that have been or shall be hereafter prescribed by virtue of the above mentioned act, such voluntary and intentional walking or going out of or beyond the said prison limits, shall be deemed and taken to be an absolute forfeiture of such bond, and the sheriff or other officer, to whom such bond may have been given, or the plaintiff or plaintiffs, at whose suit the prisoner may be in custody, in case such bond shall have

When bond to keep the prison bounds shall be forfeited.

1819.

been assigned to him, shall and may maintain an action on the said bond, notwithstanding the prisoner may have returned to, and within, the said prison limits, before the commencement of such action, any law, usage or custom to the contrary notwithstanding.

Females not
to be imprison-
ed for debt.

6. *And be it enacted*, That it shall not hereafter be lawful to confine the person of any female for debt, and this act shall not be construed to the prejudice of any debtor, now in actual confinement.

See supplement, passed 3d March, 1890.

PAM. 7.

AN ACT to repeal part of an act, entitled "An act for the relief of persons imprisoned for debt."

Passed the 13th of January, 1819.

See ante 223.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the nineteenth section of the act, entitled "An act for the relief of persons imprisoned for debt," passed the eighteenth day of March, one thousand seven hundred and ninety-five, be, and the same is hereby repealed.

PAM. 7.

AN ACT directing the further distribution of the laws of this state.

Passed the 22d of January, 1819.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the governor of this state be, and he is hereby authorized and requested to transmit to the executive of each state and territory within the United States, for the use of the executives and legislatures of the respective states and territories, three copies of the public laws, passed during the present session of the legislature; and to transmit annually hereafter, as above directed, three copies of all the public laws that may be passed at every subsequent session thereof.

PAM. 7.

AN ACT respecting fugitives from justice.

Passed the 28th of January, 1819.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That whenever a person, charged, in this state, with treason, felony, or other crime, shall flee from justice, and be found in another state, and the attorney-general shall recommend to the governor, or person administering the government of this state, to demand the said fugitive, so that he may be brought into this

state for trial, and the said fugitive shall, on demand of the executive authority of this state, be delivered up and removed to this state, the expenses of such removal being first ascertained to satisfaction of the governor, or person administering the government, shall, on warrant from him, be paid by the treasurer of this state, out of any moneys in his hands not otherwise appropriated.

1819.

A further supplement to an act, entitled "An act to regulate the fisheries in the river Delaware, and for other purposes," passed November twenty-sixth, one thousand eight hundred and eight.

PAM. 10.
See ante §41.

Passed the 9th of February, 1819.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That wherever any fishery is occupied upon the river Delaware, from the Station Point, or north-west corner of this state, down opposite to the circular boundary of the state of Delaware, either the owner or tenant, or some respectable person appointed by the owner or owners, shall apply to the clerk of the county wherein such fishery may be situated, and give a bond, with one or more sufficient sureties, to the said clerk and his successors in office, in the penal sum of three hundred dollars, conditioned for the payment to the collector of that county, of all the fines and penalties created or given by this act, and the act to which this is a supplement, that shall or may be incurred and recovered for any offence against, or infraction of the said act or acts, committed at such fishery by his or their command or permission, during his or their occupying the same; and shall also give unto the said clerk, a description in writing, of his or their pool or fishing place, together with the name of the township or place in which it is situated, and the number of men generally employed in fishing, which, together with the bond, the clerk shall file in his office, and give him or them a receipt for the same, on paying him therefor seventy-five cents; which said bond shall remain as a security for all such fines or penalties as may be incurred or recovered during his or their occupying the said pool or fishing place. And if any person or persons shall fish with any seine or net in the river Delaware, within the limits aforesaid, without having previously entered his or their fishery as aforesaid, he or they shall forfeit and pay for each person and every such offence, the sum of one hundred dollars, with costs of suit, to be sued for and recovered in any court of competent jurisdiction, by any person or persons who will sue for the same; and if any person or persons shall fish at any fishery that has been entered as aforesaid, without permission from him or them entering the same, he or they so offending shall forfeit and pay for each person and every such offence, the sum of two hundred dollars, with costs of suit, to be sued for and recovered in any court of competent jurisdiction, by him or them who have entered the same.

Bond to be given;

condition.

Description of fishery; where situated, &c.

Penalty for not complying with the provisions of this act.

1819.

Penalties recovered, and to whose use.

2. *And be it enacted*, That all and each of the penalties created, given, or contained in this act, or the act to which this is a supplement, excepting the penalty of two hundred dollars, contained in the preceding section, shall be sued for and recovered by action of debt, with costs of suit, in any court of competent jurisdiction, by any person or persons who will sue for the same, one half to the use of the prosecutor or prosecutors, and the other half for the use of the state.

Manner of prosecuting for penalties.

3. *And be it enacted*, That in all and every action or suit, for any fine or penalty given or created by this act, or the act to which this is a supplement, the person prosecuting shall and may sue by warrant or summons, in case the same is commenced in the court for the trial of small causes, or by *capias ad respondendum*, or summons, in case the action is commenced in any other court, any law or usage to the contrary notwithstanding.

Repealing clause.

When to be in force.

4. *And be it enacted*, That all and every part of the act to which this is a supplement, and of the supplementary acts thereto, as comes within the purview of this act, be, and the same are hereby repealed: *Provided*, That this act shall not be considered as valid or operative until the legislature of the state of Pennsylvania shall approve of the same by enacting a similar law.

PAM. 11.
See ante 158.

A SUPPLEMENT to the act, entitled "An act for regulating references, and determining controversies by arbitration."

Passed the 10th of February, 1819.

Relates to witnesses before arbitrators.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That in all cases where a submission shall be made to arbitration, it shall be lawful for any justice of the peace within the county wherein such arbitration may be, to issue subpoenas for any witness or witnesses, to appear before the arbitrator or arbitrators, and for him or such arbitrator or arbitrators to swear, or affirm, such or any other witnesses before the same; and if any such witness or witnesses shall not appear, when so subpoenaed, or, if appearing, shall refuse to be sworn or affirmed, and give evidence, he or she, so defaulting or refusing, shall be liable to the same fines and penalties as he or she would be by law, in any court of record in this state.

Penalty for false swearing.

2. *And be it enacted*, That if any witness, sworn or affirmed as aforesaid, shall wilfully and corruptly swear or affirm falsely, he or she shall be subjected to all the pains and penalties inflicted by law for wilful and corrupt perjury.

A SUPPLEMENT to the act, entitled "An act to enable the owners of the tide swamp and meadows already banked in, and held by different persons, to keep the same in good repair."

1819.

PAM. 60.
See ante 82.

Passed the 10th of February, 1819.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That in all cases where there are or may be any cross or line banks between two or more companies created by virtue of the act to which this is a supplement, it shall and may be lawful for the managers of either company to enter upon said cross or line bank, and repair and keep up the same in such manner as to prevent the water from passing and repassing through or over said bank: *Provided*, That nothing herein contained shall interfere with any contract or agreement heretofore made, or which shall be made, in relation to cross or line banks as aforesaid.

AN ACT explaining the term of office of the several chosen freeholders in the several counties within this state.

PAM. 14.
See ante 317.

Passed the 10th of February, 1819.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the powers and authorities granted to the several boards of chosen freeholders, in the several counties within this state shall be considered to continue in each and every board, until the organization of the new board at their annual meeting on the second Wednesday of May; the election of new members to the contrary notwithstanding.

AN ACT respecting persons arriving in this state from foreign ports.

PAM. 14.

Passed the 10th of February, 1819.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That in all cases wherein any ship or vessel shall arrive within any port or harbor in this state, having on board passengers coming from any foreign port or place, it shall and may be lawful for the overseer or overseers of the poor of the township at which the said ship or vessel may arrive, or any justice of the peace, to require of the master and commander of such ship or vessel, a bond, with approved security, to the inhabitants of such township, in a sum not exceeding two hundred dollars, conditioned for the maintenance and support of any passenger on board such ship or vessel as aforesaid, who may be sick, infirm or otherwise incapable, in the opinion of said overseer or overseers, or of such justice, of providing for his or her own support.

Bond to be given.

1819.

Conditions on which passengers may be landed.

2. *And be it enacted*, That if the master or commander of any ship or vessel, arriving as aforesaid, shall land or suffer to be landed from on board his said ship or vessel, any passenger who may be sick, infirm, or otherwise incapable of providing for his or her own support, except by license or permit from the overseer or overseers of the poor, without having first entered into bond as aforesaid, such master or commander shall forfeit and pay for each offence, the sum of one hundred dollars, to be sued for and recovered by the overseer or overseers of the poor of the township, for the use of the same, in an action of debt, with costs of suit, before any justice of the peace of said township, or in any other court having cognizance thereof.

PAM. 18.

AN ACT concerning constables and their sureties.

Passed the 10th of February, 1819.

Sureties authorized to recover money due on execution.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if any constable hath absconded, or shall abscond, or become insolvent, or incapable of doing the duties of his said office, it shall be lawful for the inferior court of common pleas of the county from which said constable hath absconded or shall abscond, or become insolvent, or incapable as aforesaid, on application for that purpose, to authorize the surety or sureties of such constable, for the time being, to ask, demand, sue for and recover any moneys which said constable could or might lawfully demand, levy and receive by virtue of any process of execution or other process, in his official capacity as constable, and also all moneys in the hands of any person or persons collected by said constable, on any execution or process, and which at the time of his absconding or insolvency, or incapacity as aforesaid, were not paid over to the plaintiff or person entitled to the same.

In what manner sureties may institute suits.

2. *And be it enacted*, That where by the absconding, insolvency or incapacity as aforesaid, of such constable, executions or process in his hands remain wholly or in part unexecuted, it shall be lawful for the said surety or sureties, for the time being, authorized as aforesaid by the inferior court of common pleas, to apply to any justice of the peace in the county where such judgment was rendered and execution issued thereon, for a summons in debt, on such judgment and execution, in the name of the plaintiff or plaintiffs in the original process against the defendant or defendants therein, and the said suit shall proceed as in other cases of summons in debt, the said surety or sureties always producing before the said justice a transcript of the judgment and the execution or executions issued thereon, and the defendant or defendants may plead payment or satisfaction of such judgment or execution, in part or whole, to such absconding, insolvent or incapable constable, or other lawful discharge, and in case of final judgment against the defendant or defendants, execution may be issued immediately for debt and costs, but if the

judgment should be for the defendant or defendants, with costs, the said surety or sureties shall pay the same, and if recovered against the plaintiff or plaintiffs, named in the record, they may recover the same over from the surety or sureties.

1819.

3. *And be it enacted*, That in case any constable shall die, before settling up all executions that shall have come to his hands by virtue of his office, his executors or administrators shall and may have full power to collect and settle up any execution or process remaining unsettled at the time of his decease, in the same manner as the surety or sureties of constables in the preceding sections; and in case of the neglect or refusal of the said executors or administrators as aforesaid, the surety or sureties of the said deceased constable shall have the same power to collect and settle the said executions, as mentioned in the preceding sections of this act.

Relates to business left unsettled by deceased constables.

4. *And be it enacted*, That all moneys which may be recovered, or come to the hands of any surety or sureties, executor or executors, by virtue of this act or otherwise, in regard to the said absconding, insolvent, deceased or incapable constable, shall be held and appropriated by such surety or sureties, executor or administrator, to the only proper use and benefit of the person or persons who may have lawful right thereto.

Appropriation of money recovered.

AN ACT to prevent unnecessary costs.

PAM. 17.

Passed the 11th of February, 1819.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That in suits on the same instrument, bond or note, where several are bound, and in suits against the maker, endorser or endorsers, of any note, and in suits on any bill of exchange against the drawer, acceptor, or any endorser or endorsers thereof, there shall be a taxation and recovery of the attorney and counsel fees taxable by law in one of the said suits only, at the election of the party plaintiff; and no fees for attorney or counsel shall be allowed or taxed in any bill of costs, in any suit or suits brought on the same instrument, bond, note or bill of exchange, against the party or parties thereto, other than in the one where the election is made as aforesaid.

See act, February 15, 1820.

AN ACT to create a fund for the improvement of internal navigation, and for other purposes.

PAM. 29.

Passed the 11th of February, 1819.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the first day of March next, there shall be

Passengers in steam-boats taxed.

1819.

Duty of captain.

levied on and collected from each and every passenger in each and every steam-boat navigating waters within the jurisdiction of this state, and between this state and any other state where passengers in steam-boats are taxed, at the rate of two cents, for each and every mile the said passengers are so conveyed within the jurisdiction of this state, and that during each month thereafter, in which such boat shall be employed for the conveyance of passengers, it shall be the duty of such captain or master to cause to be delivered to the collector of the county nearest to where such boat runs within this state, a return or account sworn to before some officer authorized to administer oaths, the number of trips made by such boat during such month, and the whole number of passengers conveyed on board of such boats at each of the said trips, and pay to the said county collector the amount of such tax collected during the time mentioned in the said return, deducting five per cent. thereof, as a compensation for making such return, and collecting and paying over the said tax: *And further*, That in case of any neglect or refusal in making such return and collecting and paying over the tax as directed in and by this act, the captain or master so neglecting or refusing shall forfeit and pay the sum of three hundred dollars, besides the amount of tax so directed to be collected and paid over; to be recovered in an action in the name of this state.

Duty of collector.

2. *And be it enacted*, That the tax to be collected in pursuance of this act, shall be paid over by the county collector where the same may be collected, to the treasurer of this state, to be appropriated, when necessary, for the improvement of internal navigation, or for such other purpose as the legislature may direct: and the county collector performing the duties required by this act, shall be entitled to receive, from the treasurer of this state, one per cent. on all moneys collected and paid over by virtue of this act.

This act was suspended until the first of November, 1819, by a supplement dated 16th February, 1819.

FAM. 17.

A SUPPLEMENT to an act, entitled "An act constituting courts of oyer and terminer and general gaol delivery."

Passed the 13th of February, 1819.

Sheriffs to return jurors without a precept being issued.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the respective sheriffs of the several counties of this state, shall cause to come before the said courts of oyer and terminer and general gaol delivery, at the times and places of holding their said respective courts, twenty-four good and lawful men, to serve as grand jurors, and so many good and lawful men to serve as petit jurors, as shall be necessary, and without any precept being issued for those purposes.

See ante 153.

2. *And be it enacted*, That the fifth and sixth sections of the act to which this is a supplement, passed the twenty-seventh day of November, one thousand seven hundred and ninety-four, are hereby repealed.

1819.

AN ACT to authorize the keeper and inspectors of the state-prison to receive and safe keep prisoners committed under the authority of the United States. PAM. 18.

Passed the 15th of February, 1819.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the keeper and inspectors of the state-prison are hereby authorized and required to receive and safe keep, in the state-prison, at the expense of the United States, all prisoners committed under the authority of the United States, until they shall be discharged by due course of the laws thereof.

AN ACT to regulate fisheries on islands and bars in the river Delaware. PAM 18.

Passed the 15th of February, 1819.

WHEREAS disputes have arisen and may continue to arise between the owners and occupiers of certain fisheries on islands and bars in the river Delaware, and others occupying fisheries contiguous thereto, along the shores of said river, from the difficulty that exists in many cases of determining the proper limits of their respective fisheries, under the provisions of the act which defines the same: **THEREFORE—**

*BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the right of fishery on all islands and bars in the river Delaware, within the jurisdiction of this state, shall be bounded by lines drawn from the extreme upper and lower points of said islands and bars, at right angles with their general course or bearing, which shall and may be determined by a base line drawn through the extreme points of said islands and bars at low water mark, and if any person or persons shall cast or lay out, or suffer to drift or swing, any seine or net beyond the right angle range of either extreme point at low water mark of any island or bar in the river Delaware, within the jurisdiction of this state, as aforesaid, or beyond the right angle range of his or their front on said island or bar, without the permission or consent of him or them owning beyond said limits, except by unavoidable accident; any person or persons so offending, and being thereof legally convicted, shall forfeit and pay for each and every such offence, the sum of fifty dollars, to be sued for and recovered in any court having competent jurisdiction thereof, with costs of suit, to be recovered by the person against whose fishery or right of fishery, such trespass shall have been committed: *Provided always,* That nothing in this act contained shall be so construed as to prevent any owner or occupier of any fishery, on any island or bar in the river Delaware, casting or laying out any seine or net, or suffering the same to drift or swing, in landing or*

Bounds of fishery.

Penalty for trespass.

1819.

Duty of captain.

levied on and collected from each and every passenger in each and every steam-boat navigating waters within the jurisdiction of this state, and between this state and any other state where passengers in steam-boats are taxed, at the rate of two cents, for each and every mile the said passengers are so conveyed within the jurisdiction of this state, and that during each month thereafter, in which such boat shall be employed for the conveyance of passengers, it shall be the duty of such captain or master to cause to be delivered to the collector of the county nearest to where such boat runs within this state, a return or account sworn to before some officer authorized to administer oaths, the number of trips made by such boat during such month, and the whole number of passengers conveyed on board of such boats at each of the said trips, and pay to the said county collector the amount of such tax collected during the time mentioned in the said return, deducting five per cent. thereof, as a compensation for making such return, and collecting and paying over the said tax: *And further*, That in case of any neglect or refusal in making such return and collecting and paying over the tax as directed in and by this act, the captain or master so neglecting or refusing shall forfeit and pay the sum of three hundred dollars, besides the amount of tax so directed to be collected and paid over; to be recovered in an action in the name of this state.

Duty of collector.

2. *And be it enacted*, That the tax to be collected in pursuance of this act, shall be paid over by the county collector where the same may be collected, to the treasurer of this state, to be appropriated, when necessary, for the improvement of internal navigation, or for such other purpose as the legislature may direct: and the county collector performing the duties required by this act, shall be entitled to receive, from the treasurer of this state, one per cent. on all moneys collected and paid over by virtue of this act.

This act was suspended until the first of November, 1819, by a supplement dated 18th February, 1819.

FAM. 17.

A SUPPLEMENT to an act, entitled "An act constituting courts of oyer and terminer and general gaol delivery."

Passed the 13th of February, 1819.

Sheriffs to return jurors without a precept being issued.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the respective sheriffs of the several counties of this state, shall cause to come before the said courts of oyer and terminer and general gaol delivery, at the times and places of holding their said respective courts, twenty-four good and lawful men, to serve as grand jurors, and so many good and lawful men to serve as petit jurors, as shall be necessary, and without any precept being issued for those purposes.

See ante 153.

2. *And be it enacted*, That the fifth and sixth sections of the act to which this is a supplement, passed the twenty-seventh day of November, one thousand seven hundred and ninety-four, are hereby repealed.

1819.

AN ACT to authorize the keeper and inspectors of the state-prison to receive and safe keep prisoners committed under the authority of the United States. PAM. 18.

Passed the 15th of February, 1819.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the keeper and inspectors of the state-prison are hereby authorized and required to receive and safe keep, in the state-prison, at the expense of the United States, all prisoners committed under the authority of the United States, until they shall be discharged by due course of the laws thereof.

AN ACT to regulate fisheries on islands and bars in the river Delaware. PAM 18.

Passed the 15th of February, 1819.

WHEREAS disputes have arisen and may continue to arise between the owners and occupiers of certain fisheries on islands and bars in the river Delaware, and others occupying fisheries contiguous thereto, along the shores of said river, from the difficulty that exists in many cases of determining the proper limits of their respective fisheries, under the provisions of the act which defines the same: **THEREFORE—**

*BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the right of fishery on all islands and bars in the river Delaware, within the jurisdiction of this state, shall be bounded by lines drawn from the extreme upper and lower points of said islands and bars, at right angles with their general course or bearing, which shall and may be determined by a base line drawn through the extreme points of said islands and bars at low water mark, and if any person or persons shall cast or lay out, or suffer to drift or swing, any seine or net beyond the right angle range of either extreme point at low water mark of any island or bar in the river Delaware, within the jurisdiction of this state, as aforesaid, or beyond the right angle range of his or their front on said island or bar, without the permission or consent of him or them owning beyond said limits, except by unavoidable accident; any person or persons so offending, and being thereof legally convicted, shall forfeit and pay for each and every such offence, the sum of fifty dollars, to be sued for and recovered in any court having competent jurisdiction thereof, with costs of suit, to be recovered by the person against whose fishery or right of fishery, such trespass shall have been committed: *Provided always,* That nothing in this act contained shall be so construed as to prevent any owner or occupier of any fishery, on any island or bar in the river Delaware, casting or laying out any seine or net, or suffering the same to drift or swing, in landing or*

Bounds of fishery.

Penalty for trespass.

1819. drawing in, beyond said limits, in all cases where no other fishery is or may be immediately adjoining thereto: *Provided also*, That this act shall not be considered as valid or operative until the legislature of the commonwealth of Pennsylvania shall enact a law containing similar regulations.

When to be in force.

PAM. 27. **AN ACT** directing the investment of the annual income of the school fund, in advance.

Passed the 18th of February, 1819.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the trustees for the support of free schools, shall, immediately after the passing of this act, cause to be invested, for the benefit of the fund for the support of free schools, the sum of eight thousand dollars, in anticipation of the moneys receivable into the treasury during the present year, to the use of said fund, which sum the treasurer is hereby authorized and directed to pay out of any moneys in his hands not otherwise appropriated.

Money immediately to be invested.

2. And be it enacted, That the said trustees shall, on or before the first day of March, in every year hereafter, cause, in like manner, to be invested, for the benefit of said fund, an amount, as near as may be, equal to the estimated receipts into the treasury on account of the same, during such year, to be advanced by the treasurer as aforesaid.

In future to be invested.

3. And be it enacted, That the treasurer shall pay the moneys to be invested as aforesaid, upon a warrant to be drawn by the governor or person administering the government, for that purpose, and the amount of all such advances shall be repaid to the treasury out of the moneys received on account of the school fund, from time to time, during the present or any other year wherein such investment shall be made, in advance as aforesaid.

To be drawn by warrant.

PAM. 39. **AN ACT** to alter the time of holding the January term of the courts in the county of Essex.

See ante 364.

Passed the 4th of November, 1819.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the next term of the inferior court of common pleas, and the court of general quarter-sessions of the peace, and orphans' court, and courts of oyer and terminer and general gaol delivery, in and for the county of Essex, shall commence and be holden on the first Tuesday in January next; and the January term of all the said courts in and for the said county of Essex, shall always hereafter, commence and be holden on the first Tuesday in January in every year, instead of the second Tuesday in January, as heretofore.

When to be held.

2, 3, 4. Executed.

A SUPPLEMENT to the act, entitled "An act concerning roads."

1819.

PAM. 40.
See ante 615.

Passed the 26th of January, 1820.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall be the duty of the applicant or applicants, to whom shall be delivered the return of the surveyors of the highways, in pursuance of the act to which this is a supplement, to deliver or transmit the said return to the clerk of the court of common pleas, or of the supreme court, as the case may require, within fifteen days after the date thereof; and that in every case of neglect or refusal to deliver or transmit the same, within the time aforesaid, the said return shall be void.

AN ACT to incorporate part of the townships of Woolwich and Greenwich, in the county of Gloucester, into a separate township, to be called "The township of Franklin."

PAM. 58.

Passed the 27th of January, 1820.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all that part of the townships of Woolwich and Greenwich, in the county of Gloucester, lying within the following boundaries, to wit: beginning at the head of Oldman's creek, in the line between the counties of Gloucester and Salem, and also the line of the south side of Woolwich township, thence running a straight line to Mantua creek, to intersect said creek below James Jessup's mill, opposite the dwelling-house of Andrew Dilks, distance about seven miles; thence up said creek the several courses thereof, being the boundary line between Greenwich and Deptford townships, to the head thereof; thence still along the said boundary line to the line of Hamilton township, distance about twelve miles; thence along the line of the west side of Hamilton township to the line between the counties of Gloucester and Cumberland, distance about six miles; thence along the said county line westwardly, to the place of beginning, shall be, and the same is hereby set off from the said townships of Woolwich and Greenwich; and the same is hereby established a separate township, to be called by the name of "The township of Franklin."

Boundaries..

2. Supplied by act, 22d May, 1820.

3. And be it enacted, That the first town-meeting of the inhabitants, after the passing of this act, shall be on the second Wednesday in March next, at the house now occupied by George Cake, in the village of Little Ease, and that all town-meetings thereafter, shall be held on the second Wednesday of March annually, at such place as the electors of the said township shall from time to time, direct and appoint.

Town-meetings, when and where to be held.

4. Executed.

1819. AN ACT for the better regulation of fishing in Cohansey creek.

PAM. 93.

Passed the 28th of January, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That from and after the passing of this act, no person or persons shall be allowed to affix, fasten or set, any net or nets, or other device or devices in Cohansey creek, below the bridge at Bridgeton in the county of Cumberland, that may tend to obstruct or hinder the fish from going up or down the same, which shall extend to more than one-fourth of the width of said creek, at low water, at any one place, nor to float or otherwise make use of any gilling seine or drift net in the said creek, upon the usually established fishing grounds, in the season of fishing: *Provided,* That nothing in this act contained shall extend to prevent any person or persons from fishing with sweeping seines and scoop-nets as heretofore.

2. *And be it enacted,* That all and every person or persons who shall fix, fasten, or set any net or nets, device or devices, or make use of any gilling-seine or drift-net, or shall in any way aid, assist or abet doing the same, contrary to the provisions of the preceding section of this act, shall forfeit and pay the sum of thirty dollars, for each and every such offence, to be recovered by action of debt, before any justice of the peace of said county, with costs of suit, to be paid one half to the collector of said county, for the use of the poor thereof, and the other half to any person or persons who shall sue for and prosecute the same to effect.

PAM. 85.

AN ACT to incorporate the city of Jersey, in the county of Bergen.

Passed the 28th of January, 1820.

Bounds.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That all that portion of the township of Bergen, in the county of Bergen, now owned by the Jersey associates, formerly called Powles-Hook, and which is constituted and surrounded by a certain ditch as the boundary line between the Jersey associates and the lands of Cornelius Van Vorst, deceased, on the west and northwest, and by the middle of the Hudson river and the bay surrounding all the other parts of the same; and the freeholders and other inhabitants thereof, and now and hereafter residing within the same, shall be, and from henceforth shall continue to be a corporation and body politic in name and in fact; and shall be known as such by the name and description of "Jersey City," and by that name the said freeholders and other inhabitants shall have perpetual succession, and be capable of suing and being sued in all actions and suits at law and in equity, as occasion may require.

Incorporated.

2. *And be it enacted,* That the said corporation or body poli-

tic, hereby created, may have a common seal, which may be renewed or altered from time to time by the persons who shall conduct the affairs thereof, as after mentioned.

1819.

Seal.

3. *And be it enacted*, That for the conducting of the affairs of the said corporation, the freeholders and other taxable inhabitants shall annually choose, at an election to be held for that purpose, and by ballot, five freeholders, being inhabitants within the bounds of the said corporation, to conduct the affairs thereof, which election shall be annually held at some public and convenient places within the bounds of the said corporation, on the first Monday of September in every year, and until others are chosen; that the persons so to be chosen shall be denominated "The Board of Selectmen of Jersey City," and shall enter upon the duties of their office on the Tuesday next succeeding their election, at which time they shall choose, from amongst themselves, by a majority of votes, one person to be president, and some fit person to be their clerk, whose business it shall be to record their proceedings and to do such other acts as he shall be required to do by the board.

Board of selectmen, by whom chosen.

4. *And be it enacted*, That from and after the passing of this act, and until the first Monday in September next, Doctor John Coadit, Samuel Cassedy, Joseph Lyon, John K. Goodman and John Seaman, shall perform the duties required by this act, and until others are chosen in their stead; and if any person, chosen one of the said board, shall happen to die, resign or remove out of the bounds of the said corporation, within the period for which he shall be chosen, so that his seat is vacated, such vacancy shall be filled by some other freeholder, to be chosen by the remaining members of the board, until the next annual election shall be held.

The first board appointed.

5. *And be it enacted*, That the board of selectmen shall be, and are hereby empowered, by a majority of votes, to pass all such necessary ordinances as may be found requisite and convenient for the exercise of the powers hereby vested in said board, and to appoint the necessary officers, agents and servants to carry the same into effect, and to impose reasonable penalties for the breach or non-observance of the same: *Provided* such ordinances be not inconsistent or contrary to the constitution or legislative acts of this state, or of the United States, and all such penalties shall be sued for and recovered in any court having cognizance thereof, in the name of said board; and the members thereof, and all other corporators, shall be competent witnesses in every such action or suit, and such penalties, when recovered, shall be kept an account of, and shall be applied by the said board to compensate their officers, agents or servants, for their services, or any other public purpose, but not otherwise.

Powers of the board.

6. *And be it enacted*, That the powers to be exercised by the board of selectmen, and the subjects and matters respecting which they may pass and enforce ordinances, shall be the following, and those only; that is to say, relating to the commons or public grounds, streets, highways and alleys therein, and removing and preventing obstructions therein, and the enclosing or

Powers of the board confined to certain subjects.

1819.

otherwise improving such commons or public grounds, relating to public markets within the corporation, relating to weights and measures, to the inspection and measurement of fire-wood, and the weight and prices of bread, and to prevent fixing any poles for fishing, or any obstructions whereby the lives of the inhabitants are endangered, or the navigation of the river obstructed; relating to the running at large, or restraining from so doing, horses, cattle, swine, or other beasts or fowl; relating to the lighting the streets, highways or alleys; relating to night-watch, fire-engines, engine houses, and the extinguishment of fires; and relative to whatever may concern the good government of the said corporation, and the orderly conduct of the inhabitants and others within the same, so far as regards the public peace and tranquillity of the same.

Relates to imposing taxes.

7. *And be it enacted*, That the said corporation shall not impose any tax on the inhabitants thereof, for any purpose whatever, without the previous consent of a majority of the freeholders and taxable inhabitants who may attend and vote respecting the same, at a public meeting to be convened for that purpose, on reasonable notice being given or advertised by the board of selectmen.

Powers reserved.

8. *And be it enacted*, That as this corporation is made and instituted from public policy, the power of altering and annulling the same is hereby reserved, and that nothing granted by this act shall interfere with any of the powers or rights granted to the Jersey associates.

R.A.M. 40.

AN ACT to prevent the disturbance of meetings held for the purpose of religious worship.

Passed the 2d of February, 1820.

Liquors not to be sold within three miles &c.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That from and after the passing of this act, it shall not be lawful for any person or persons to erect, place, or have any booth, stall, tent, carriage, boat or vessel, or other place, for the purpose or use of selling, giving, or otherwise disposing of any kind of articles of traffic, spirituous liquors, wine, porter, beer, cider, or any other fermented, mixed, or strong drink, (excepting as hereinafter excepted) within three miles of any place of religious worship, in this state, during the time of holding any meeting for religious worship at such place.

Violations punished in what manner.

2. *And be it enacted*, That if any person or persons shall or do violate this act, by erecting, fixing, or having any booth, stall, tent, carriage, boat or vessel, or other place, for the purpose or use aforesaid, or by selling, bartering, giving, or otherwise disposing of any kind of articles of traffic, spirituous liquors, wine, porter, beer, cider, or other fermented, mixed, or strong drink, in, at, or about any such booth, stall, tent, carriage, boat or vessel, or other place, prepared or used for the purposes aforesaid,

1820.

within three miles of any place of religious worship, during the time of holding any meeting for religious worship at such place, the person or persons so offending, shall first be informed of his, her, or their violation of this act, and shall be warned by any justice of the peace, constable, or two freeholders of the county where the offence is or shall have been committed, to desist from such offence, and to remove such booth, stall, tent, carriage, boat or vessel, together with all such articles of traffic, spirituous liquors, wine, porter, beer, cider, or other strong drink, belonging to, or in the possession of the person or persons so offending; and if such person or persons, on receiving such information and warning, shall forthwith cease to offend against this act, and shall remove as aforesaid, at least three miles from such place of religious worship, then no further proceeding under this act, shall be had against such person or persons; but if such person or persons shall refuse or neglect immediately to remove, as aforesaid, when informed and warned, as aforesaid, then all the said articles of traffic, spirituous liquors, wine, porter, beer, cider, and other fermented, mixed and strong drink, and all the vessels, chests, and other things containing the same, together with such booth, stall, tent, carriage, boat or vessel, or other place prepared or used for the purpose aforesaid, shall be, and are hereby declared to be forfeited; and it shall be lawful for any justice of the peace and constable, with two freeholders of the county, to seize and take possession of all or any part of the said forfeited articles and liquors, together with such booth, stall, tent, and carriage, boat or vessel, and at any time within ten days after, to advertise and sell the same; and after deducting and paying the necessary and lawful expenses of such seizure and sale, the residue of the proceeds of such sale or sales, shall be paid to the overseers of the poor of the township, for the use of the poor of the county, where the support of the poor is a county charge, and where it is a township charge, to the poor of the township where such offence shall have been committed.

3. *And be it enacted*, That nothing in this act contained shall be taken or construed so as to affect any licensed tavern-keeper, in his or her ordinary and lawful business, at his or her usual place of residence, specified in his or her license, nor shall it be so taken and construed, as to affect any merchant, shop-keeper, farmer, mechanic, or other person, in the usual and lawful transaction of his, her, or their ordinary concerns and business, in their usual places of doing such business; neither shall it be so taken or construed as to affect any person or persons attending any religious meeting, or their property; nor shall it be so taken, construed, or understood, as to affect any person or persons, who shall have a permit in writing, from the person or persons, having the oversight, charge and management of any such meeting, to sell bread and other necessary articles of food for man and beast; provided the conduct of persons attending such meeting, shall accord with the lawful rules and regulations of such meeting, and the property of such persons attending such religious meeting, be not of the description forbidden by this act.

Who it shall
not affect.

1820.

4. *And be it enacted*, That if any suit or action shall be brought against any person or persons, for doing, or causing to be done, any thing in pursuance of this act, according to the provisions thereof, the defendant or defendants may plead the general issue, and give the special matter, under this act, in evidence; and if in such suit or action, a verdict and judgment shall be given for the defendant or defendants, or the plaintiff shall become nonsuit, or discontinue his action, the defendant or defendants shall have and recover double costs of suit.

PAM. 42.
See ante 168.

A SUPPLEMENT to an act, entitled "An act concerning costs."

Passed the 15th of February, 1820.

Judge to certify, &c.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That in all actions of trespass, commenced or prosecuted in the supreme court, wherein the judge, at the trial of the cause, shall find and certify, under his hand, upon the back of the record, that the freehold, inheritance, or title to lands, tenements, hereditaments, or other real estate, came in question, on the trial of said cause, and the plaintiff or plaintiffs shall recover any damages, the plaintiff or plaintiffs shall recover not only his, her, or their damages, but full costs of suit.

Costs in suits removed.

2. *And be it enacted*, That if any suit commenced in any of the inferior courts of common pleas, shall be removed by writ of habeas corpus into the supreme court, by the defendant or defendants, and the plaintiff or plaintiffs shall recover in the supreme court, he, she or they, shall recover full costs, in case he, she or they, would have been entitled to recover costs, had the suit remained and been tried in the common pleas.

Suits on foreign bills of exchange.
See ante 667.

3. *And be it enacted*, That nothing in the act, entitled "An act to prevent unnecessary costs," passed the eleventh day of February, one thousand eight hundred and nineteen, shall be construed or taken to extend to foreign bills of exchange, but that the recovery of costs, on all suits arising on foreign bills of exchange, shall be and remain the same as though the said act had not been passed.

4. *And be it enacted*, That the fourth, fifth, and sixth sections of the act, entitled "An act concerning costs," passed the eighteenth day of February, one thousand seven hundred and ninety-five, be, and the same are hereby repealed.

PAM. 43.
See ante 186.

A SUPPLEMENT to an act, entitled "An act concerning landlords and tenants."

Passed the 15th of February, 1820.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the rent in arrear, directed by the fourth section of the act to

which this a supplement, to be paid by the party suing out execution, to the landlord of the premises, or his bailiff, shall extend to all the rent which shall have accrued up to the day of the removal of the goods from off the said premises, whether by the terms of lease the day of payment shall have come or not, making a rebate of interest on the sum, the time of payment of which, by the terms of the lease, shall not have come, but not exceeding one year's rent.

1820.

AN ACT concerning divorces, and for other purposes.

PAM. 43.

Passed the 16th of February, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the court of chancery, shall have jurisdiction of all causes of divorce, and of alimony or maintenance, by this bill directed and allowed; provided the parties, complainant and defendant, or either of them, were or shall be inhabitants of this state, at the time of the injury, desertion, or neglect complained of, or where the marriage shall have been solemnized or taken place within this state, and the complainant shall have been an actual resident in this state, at the time of the injury, desertion, or neglect complained of, and at the time of exhibiting the bill; or where the adultery was committed in this state, and the parties, complainant and defendant, or either of them, reside in this state at the time of exhibiting the bill; provided such complainant shall make his or her oath or affirmation, to be annexed to the bill of complaint, that his or her complaint is not made by any collusion between him or her, and the defendant, for the purpose of dissolving their marriage, but in truth and good faith for the causes set forth in the bill of complaint.

In what cases the court shall have jurisdiction.

2. *And be it enacted,* That the like process and course of practice and procedure, shall be had and pursued in all such causes, as are usually had and pursued in other causes, on the equity side of the said court, except that the answer of defendants shall not be under oath.

Course of practice.

3. *And be it enacted,* That divorces from the bond of matrimony, shall be decreed where either of the parties had another wife or husband living at the time of such second or other marriage; and that all marriages, where either of the parties shall have a former husband or wife, living at the time of such marriage, shall be invalid from the beginning, and absolutely void, and the issue thereof shall be deemed to be illegitimate, and subject to all the legal disabilities of such issue.

Causes of divorce.

4. *And be it enacted,* That divorces from the bond of matrimony, may be decreed, in case the parties are within the degrees prohibited by law, and in case of adultery in either of the parties; and also for wilful, continued and obstinate desertion for the term of five years; but the decree or sentence of divorce in such cases, shall not render illegitimate, the issue of any marriage so dissolved.

1820.

Collusion of parties.

5. *And be it enacted*, That if it appear to the court that the adultery complained of, shall have been occasioned by the collusion of the parties, and done with an intention to procure a divorce, or that the complainant was consenting thereto, or that both parties have been guilty of adultery, then no divorce shall be decreed.

If persons divorced cohabit, how punished.

6. *And be it enacted*, That if any persons, who shall be divorced on account of their being within the prohibited degrees, shall, after such divorce, cohabit together, such persons, so offending, shall be liable to all the pains and penalties provided by the then existing laws against incest.

7. *And be it enacted*, That if any persons shall cohabit or live together in the same house, after a divorce for the cause of adultery or prior marriage, such persons, so offending, shall be liable to all the pains and penalties provided by the laws against adultery.

Divorce for cruelty.

8. *And be it enacted*, That for extreme cruelty in either of the parties, the court of chancery may decree a divorce from bed and board for ever thereafter, or for a limited time, as shall seem just and reasonable.

The court may decree alimony and maintenance.

9. *And be it enacted*, That when a divorce shall be decreed, it shall and may be lawful for the court of chancery, to take such order touching the alimony and maintenance of the wife; and also touching the care and maintenance of the children, or any of them, by the said husband, as from the circumstances of the parties and the nature of the case shall be fit, reasonable and just; and in case the wife is the complainant, to order the defendant to give reasonable security for such alimony and maintenance; and upon his neglect or refusal to give such reasonable security as shall be required of him, or upon default of him and his surety, if any there be, to pay or provide such alimony and maintenance, to award and issue process for the immediate sequestration of the defendant's personal estate, and the rents and profits of his real estate, and to appoint a receiver thereof, and cause such personal estate, and the rents and profits of such real estate, or so much thereof as shall be necessary to be applied towards such maintenance and allowance, or to such maintenance and allowance as to the said court shall, from time to time, seem reasonable and just, or to enforce the performance of the said decree or orders by such other lawful ways and means as is usual, and according to the course and practice of the court of chancery.

Maintenance of wife and children, in case the husband abandons them.

10. *And be it enacted*, That in case a husband, without any justifiable cause, shall abandon his wife, or separate himself from her, and refuse or neglect to maintain and provide for her, it shall and may be lawful for the court of chancery to decree and order such suitable support and maintenance to be paid and provided by the said husband, for the wife and her children, or any of them by that marriage, or out of his property, and for such time as the nature of the case and the circumstances of the parties render suitable and proper in the opinion of the court, and to compel the defendant to give reasonable security for such main-

tenance and allowance; and, from time to time, to make such further orders touching the same, as shall be just and equitable, and to enforce such decree and orders, in the manner mentioned in the last preceding section of this act. But during the time such maintenance shall be allowed by the decree or sentence of the court, the husband shall not be chargeable with her debts.

1820.

11. *And be it enacted*, That in any such suit as is mentioned in the last preceding section, it shall and may be lawful for the chancellor, if applied for before answer filed, to order a bond to be given in one hundred dollars, by one or more sufficient freeholders, with condition to pay such costs as shall or may be awarded by the court to be paid to the defendant.

Indemnity for costs.

12. *And be it enacted*, That the act, entitled "An act concerning divorce and alimony," passed the second day of December, seventeen hundred and ninety-four; and the act, entitled "A supplement to the act entitled an act concerning divorce and alimony," passed the fourth day of March, seventeen hundred and ninety-five; and the act, entitled "An act concerning divorces and for other purposes," passed the third day of February, eighteen hundred and eighteen, be, and they are hereby repealed: *Provided nevertheless*, That such repeal shall not affect any proceedings now depending by virtue of the before mentioned acts, or either of them, but the same may be continued and proceeded upon as if this act had not been passed.

Acts repealed.

AN ACT to repeal two sections of an act concerning sheriffs.

Passed the 16th of February, 1820.

PAM. 46.
See ante 239.

BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the fourteenth and fifteenth sections of the act, entitled "An act concerning sheriffs," passed the eighteenth day of March, one thousand seven hundred and ninety-six, be, and the same are hereby repealed.

A SUPPLEMENT to the act, entitled "An act respecting apprentices and servants."

Passed the 18th of February, 1820.

PAM. 46.
See ante 366;

BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the age of any infant who shall be bound to serve as a clerk, apprentice or servant, directed by the second section of the act to which this is a supplement, to be inserted in his or her indenture, shall not be conclusive as to the age of such infant, but the true age of such infant may be inquired into and given in evidence in any court or before any magistrate, when the same shall or may come in question; and in case any infant shall be bound to

1820.

serve beyond the time at which said infant, if a male, shall have arrived at the age of twenty-one years, or, if a female, at the age eighteen years, the said indenture shall be void as against such infant, so far as the age inserted in said indenture shall exceed the age aforesaid: *Provided*, That nothing in this section, shall in any way impair the obligation of any covenant entered into by the parent or guardian of such infant, as to the age or time of service of such infant, nor shall it impair or affect any contracts, or indentures made with foreigners to serve for a term of years.

PAM. 46.
See ante 410.

A SUPPLEMENT to the act, entitled "An act for the limitation of actions," passed the seventh day of February, one thousand seven hundred and ninety-nine.

Passed the 21st of February, 1820.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if any person or persons, against whom there is or shall be any such cause of action as is specified in the first, second, third, fifth, sixth and seventh sections of the act to which this is a supplement, shall not be resident in this state when such cause of action accrues, or shall remove from this state after the same shall accrue and before the time of limitation mentioned in said sections is expired, then the time or times during which such person or persons shall not reside in this state as aforesaid, shall not be computed as part of the said limited period within which such action or actions are required to be brought as aforesaid; but the person or persons having, or who may have such cause of action as aforesaid, shall be entitled to all the time mentioned in the said several sections, for bringing their said actions after the cause thereof shall accrue, exclusive of the time or times during which the person or persons liable to such actions shall be not resident in this state as aforesaid.

2. *And be it enacted*, That the eighth section of the act to which this is a supplement, be, and the same is hereby repealed.

PAM. 47.
See ante 430.

A SUPPLEMENT to the act, entitled "An act making lands liable to be sold for the payment of debts."

Passed the 21st of February, 1820.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That when any testator or intestate shall die possessed of any share or shares, or part or parts of a share of propriety of undivided rights, or warrant to locate any land, either in the eastern or western division of New-Jersey, and shall not leave other estate sufficient to pay all the just debts and maintain the children of such decedent, that then and in such case the executor or ex-

ecutors, administrator or administrators, shall apply to the orphans' court of the county where such decedent last resided, and the said court shall make an order for the sale of such share or parts of shares, or warrants for unlocated rights, on the like exhibition and proof of the deficiency of the estate of such decedents, to pay the just debts that shall appear against the same, under the same restrictions, notice and publicity as is by law directed for the sale of real estates.

1820.

In what cases orphans' court may direct propriety rights, &c. to be sold.

2. *And be it enacted*, That in case a writ of fieri facias shall be issued against the goods and chattels, lands, tenements, hereditaments and real estate, of any person or persons, and such person or persons shall desire that the whole or a part of the said lands, tenements, hereditaments and real estate, shall be sold before any of the said goods and chattels, and signify the same in writing, under his, her, or their hands, and deliver the same to the sheriff or other officer to whom the said writ of fieri facias shall be directed, within twenty days from the time of notice of said writ, and before the goods shall be sold, and enter into bond to the said sheriff or other officer, with good and sufficient sureties, that the goods and chattels levied on in virtue of the said writ, shall be forthcoming to answer the exigencies of said writ, at a day therein named, not exceeding three calendar months from the date of said bond, then and in that case it shall be the duty of the said sheriff or other officer, to whom the said writ shall be directed, to suspend the sale of the said goods and chattels, and proceed to sell the said lands, tenements, hereditaments and real estate, or such part thereof as the owner or owners thereof shall have desired to be sold as aforesaid, any thing contained in the sixth section of the act to which this is a supplement, the said writ of fieri facias, or any law to the contrary notwithstanding.

On writs of fieri facias, lands may be sold before goods.

Conditions to be performed.

3. *And be it enacted*, That it shall be the duty of the sheriff or other officer, to whom a writ of fieri facias may be directed, against lands, tenements, hereditaments and real estate, in addition to the notice required by the ninth section of the act to which this is a supplement, to cause the time and place of the sale of said lands, tenements, hereditaments and real estate, levied on by virtue of said writ, to be published in one of the newspapers printed and published in this state, and circulated in the neighborhood of the said lands, tenements, hereditaments, and real estate, at least four weeks successively, once a week, next preceding the time appointed for selling the same, and that the said sheriff or other officer, advertising as aforesaid, shall be entitled, in addition to his other fees, to the sum of one dollar and fifty cents.

In what manner notice of sale to be given.

4. *And be it enacted*, That whenever any lands, tenements, hereditaments, and real estate, shall be directed to be sold by an order made by the orphans' court, in any of the counties of this state, it shall be the duty of the executor, administrator, or guardian, as the case may be, to advertise the time and place of the sale thereof, in the manner directed in the preceding section of this act, in addition to the provision already prescribed by law.

Lands ordered to be sold by the orphans' court, to be advertised.

1820.

In what case
surviving ex-
ecutors may
convey lands.

5. *And be it enacted*, That in all cases wherein an order hath heretofore been made, or shall hereafter be made, by the orphans' court of any county in this state, in which the said court hath ordered or directed, or may order or direct, two or more executors or administrators, to sell the whole or any part of the lands, tenements, hereditaments, and real estate of a testator or intestate, for the payment of debts, and one or more of the said executors, or administrators, shall or may have departed this life, before such sale shall have been made, or before a deed or deeds of conveyance may have been executed in pursuance thereof, that then and in such case, the survivor or survivors of such executors or administrators, shall be, and they are hereby authorized and empowered to sell the said lands, tenements, hereditaments, and real estate, and to make and execute good and sufficient deed or deeds of conveyance for the same, to the purchaser or purchasers, and in all respects to execute, carry into effect, and fulfil the said order as fully and effectually to all intents and purposes, as all the executors, or administrators, named in the same order, might, if living, execute and fulfil the same.

6. *And be it enacted*, That the act, entitled "A supplement to the act, entitled an act making lands liable to be sold for the payment of debts," passed the eleventh day of November, one thousand eight hundred; and the act, entitled "An act to amend the act, entitled an act making lands liable for the payment of debts," passed the twenty-sixth day of November, one thousand eight hundred and four; and the act, entitled "A further supplement to the act, entitled an act making lands liable for the payment of debts," passed the sixth day of February, one thousand eight hundred and sixteen, be, and the same are hereby repealed: *Provided nevertheless*, That nothing in this repealing section shall in any way invalidate or render null any act, matter or thing, lawfully done or transacted under them, or any of them, or impair any right required under them or any of them, but the same shall be as good, valid and effectual, as though this repealing section had not been made.

See act, November 9th, 1820.

PAM. 65.
See ante 600.

A SUPPLEMENT to the act, entitled "An act relative to toll and chain bridges."

Passed the 21st of February, 1820.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That so much of the first section of the act to which this is a supplement, as relates to any kind of carriage, waggon, cart, sled, or sleigh, drawn by one horse, and also to single horses and mules, be, and the same is hereby repealed: *Provided nevertheless*, That nothing in this act contained, shall be construed to extend to or affect the toll-bridges already built over the river Delaware.

1820.

A SUPPLEMENT to an act, entitled "An act for the preservation of deer and other game, and to prevent trespassing with guns," passed December twenty-first, one thousand seven hundred and seventy-one.

PAM. 66.
Sec ante 25.

Passed the 21st of February, 1820.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if any person or persons shall kill, destroy, hunt, or take any doe, buck, fawn, or any sort of deer whatsoever, at any other time or season, except only between the last day of August and the second day of January, yearly and every year, he, she or they, so offending, shall forfeit and pay the sum of twenty dollars, for each and every such offence, to be sued for and recovered with costs of suit, in an action of debt, by any person, before any justice of the peace of the county wherein such offence shall have been committed, one half of the forfeit money shall be for the benefit of the person prosecuting for the same, and the remainder paid to the collector of the township wherein the offence shall have been committed, for the use of the township: *Provided*, That nothing in this supplement shall be construed or taken to extend to restrain the owners of parks or tame deer, from killing, hunting, or driving their own deer.

When deer
may be killed.

Penalty.

To whom for-
feited.

Proviso.

2. And be it enacted, That if any person or persons shall hunt for the purpose of killing, or to destroy or take, or kill any moor-fowl, grouse, partridge, quail, or rabbit, except only between the first day of September and the first day of February, and any woodcock, except only between the twenty-fifth day of June and the first day of February, yearly and every year, he, she or they, so offending, shall forfeit and pay for each moor-fowl, grouse or partridge, two dollars, and for each woodcock, rabbit, or quail, one dollar, for each and every offence, to be sued for and recovered in an action of debt, with costs of suit, by any person who shall sue for the same; and any person or persons in whose hands or custody any moor-fowl, grouse, partridge, quail or rabbit, shall be found, that shall have been killed contrary to the provisions of this act, shall be deemed, taken and adjudged to be the killer or destroyer of such game, and liable to the penalties aforesaid, unless such person or persons shall make it appear who it was that killed the same, or from whom such person, so thereof possessed, received the same: *Provided nevertheless*, That no person shall be prohibited from gunning on his own land.

When certain
fowl, &c. may
be killed.

Penalty.

Possession of
the game, evi-
dence of the
killing.

3. And be it enacted, That the fourth and sixth sections of the act to which this is a supplement, and so much of the fourteenth section of the same act, as makes it a duty of the justices of the general quarter-sessions of the peace, to cause the said act to be read and given in charge to the grand jury, at every quarter-sessions of the peace, and also the supplement to said act, passed the eleventh day of February, one thousand eight hundred and eighteen, be, and the same are hereby repealed.

Acts repealed.

1820.

PAM. 49.

AN ACT to secure to creditors an equal and just division of the estates of debtors, who convey to assignees, for the benefit of creditors.

Passed the 23d of February, 1820.

Assignments
to be for the
equal benefit
of all creditors.

Cases except-
ed.

Relating to
debtor's inven-
tory and list of
creditors.

What to be
done by the
assignees be-
fore they sell.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That from and after the fourth day of July next, every conveyance or assignment, made by a debtor or debtors, of his, her or their estates, real or personal, or both, in trust to the assignee or assignees, for the creditors of such debtor or debtors, shall be made for their equal benefit, in proportion to their several demands, to the nett amount that shall come to the hands of said assignee or assignees for distribution; and all preferences of one creditor over the other, or whereby any one or more shall be first paid, or have a greater proportion in respect of his, her, or their claim, than another, shall be deemed fraudulent and void, excepting mortgage and judgment creditors, when the judgment has not been by confession for the purpose of preferring creditors.

2. *And be it enacted,* That the debtor or debtors making such assignment, shall annex to such assignment or conveyance, an inventory, under oath or affirmation, of his, her, or their estate, real and personal, according to the best of their knowledge, and together with a list of his, her or their creditors, and the amount of their respective claims, but that such inventory shall in no wise be conclusive as to the quantum of the debtor's estate, real and personal, but the assignee or assignees shall be entitled to any other property which may belong to the debtor or debtors, at the time of making the assignment, and comprehended within the general terms of the same.

3. *And be it enacted,* That the said assignee or assignees shall, for the term of thirty days from the date of said assignment, give public notice, by advertising in two of the newspapers printed in this state, circulating in the neighborhood where such creditor resides, and in one or more newspapers in any other state, where it shall be known any creditor of the said assignee resides, making known thereby that such assignment has been made, and that they make their claims under oath or affirmation. At the end of said thirty days, the said assignee or assignees shall exhibit to the surrogate of the county wherein such debtor or debtors reside, under oath or affirmation, a true inventory and valuation of said estate, as far as has come to his or their knowledge, and then and there enter into bond, to the governor of this state, for the time being, in double the amount of the inventory and valuation, with sufficient security, for the faithful performance of said trust, and the said assignee or assignees may then proceed to sell said estate, and perform every other duty necessary to carry into effect the intention of said assignment, so far as respects the collection of debts, and sale of real or personal estate, and the bond shall be filed in the surrogate's office.

4. *And be it enacted,* That after the said assignee or assignees

shall have given bond as aforesaid, for the faithful performance of said trust, the surrogate shall endorse the receipt of said bond on the deed of assignment, after which endorsement, the clerk of the county shall record the same, having been first acknowledged or proved according to law.

1820.

5. *And be it enacted*, That at the expiration of six months from the date of said assignment, the said assignee or assignees shall file with the clerk of the court of common pleas of the county wherein such debtor or debtors resided, at the time of making such assignment, a true list, under oath or affirmation, of all such creditors of said debtors, as shall claim to be such, with a true statement of their respective claims, having first advertised for six weeks next preceding the end of said term, in two of the newspapers printed in this state, and by putting up advertisements in five of the most public places in the neighborhood wherein such creditors or a majority of them reside, making known thereby that all claims against said estate must be made as hereinafter prescribed, or be for ever barred from coming in for a dividend of said estate, otherwise than hereinafter provided.

Assignees to
file a list of
creditors, &c.

6. *And be it enacted*, That it shall be lawful for the assignee or assignees, or any creditor, or other person interested, by himself or attorney, to appear at the next term of the said court of common pleas, and file exceptions to the claim or demand of any creditor, exhibited as aforesaid, and said court shall cause a notice to be served on said creditor, at least four weeks preceding the next term, and shall then proceed to hear the proofs and allegations in the premises, in the same or any subsequent term, as may be expedient, allowing the parties a right to have the said controversy settled by jury.

Exceptions to
creditor's de-
mands.

7. *And be it enacted*, That at the first term of said court, succeeding the expiration of six months, as aforesaid, should there be no exceptions made to the claim of any creditor, or if exceptions have been made and adjudicated or settled by said court, the said assignee or assignees shall then proceed to make, from time to time, fair and equal dividends, among said creditors, of the assets which shall come to hand, in proportion to their claims, and as soon as may be, and not exceeding one year thereafter, shall render, on oath or affirmation, a final account to the orphans' court of said county, in like manner and upon the same notice to creditors and others interested, as directed in regard to executors and administrators in the sixteenth section of the act, entitled "An act to ascertain the powers and authority of the ordinary and his surrogates, and to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of this state," passed the sixteenth of December, one thousand seven hundred and ninety-four; and exceptions may, in like manner, be filed to such accounts and proceeded in as is prescribed in said section, in regard to executors and administrators, and the settlement and decree of said court shall be conclusive on all parties, except for assets which may afterwards come to hand, or for frauds or apparent error.

Dividends to
be made by
the assignees,
and in what
manner.

1820.
 Allowance to assignees.
 May be compelled to proceed.
8. *And be it enacted*, That such commissions and allowances shall be made to said assignee or assignees, in the final settlement aforesaid, as the said court shall consider just and right.
9. *And be it enacted*, That the said court may, from time to time, if necessary, by citation and attachment, compel said assignee or assignees to proceed to the execution of the duties required by this act, until a final settlement and distribution as aforesaid.
- Debts not due.
10. *And be it enacted*, That any creditor may not only exhibit any debt due, but those to grow due, making, in such case, a reasonable rebate, when interest is not accruing on the same.
- Claims to be exhibited within six months.
11. *And be it enacted*, That if any creditor shall not exhibit his, her or their claims within the term of six months, as aforesaid, such claim shall be barred of a dividend, unless the estate shall prove sufficient, after the debts exhibited and allowed are fully satisfied, or such creditor shall find some other estate not accounted for by the assignee or assignees before distribution, in which case such barred creditor shall be entitled to a ratable proportion therefrom.
- Manner of making sale.
12. *And be it enacted*, That whenever any assignee or assignees, as aforesaid, shall sell any real estate of such debtor or debtors, as is conveyed in trust as aforesaid, he or they shall proceed to advertise and sell the same, in manner as is prescribed in the case of an executor, by the twenty-first section of the act, entitled "An act making lands liable to be sold for the payment of debts," passed eighteenth of February, one thousand seven hundred and ninety-nine, and the supplement to said act, passed the twenty-sixth of November, one thousand eight hundred and four.
- Power of assignees.
13. *And be it enacted*, That every assignee as aforesaid, shall have as full power and authority to dispose of all estate, real and personal, assigned, as the said debtor or debtors had at the time of the assignment, and to sue for and recover, in the proper name of such assignee or assignees, every thing belonging or appertaining to said estate, real or personal, of said debtor or debtors, and shall have full power and authority to refer to arbitration, settle and compound, and to agree with any person concerning the same, and to redeem all mortgages and conditional contracts, and generally to act and do whatsoever the said debtor or debtors might have lawfully done in the premises.
- How far the debtor is protected by his assignment.
14. *And be it enacted*, That nothing in this act shall be taken or understood as discharging said debtor or debtors from liability to their creditors, who may not choose to exhibit their claims, either in regard to the persons of such debtors, or to any estate, real or personal, not assigned as aforesaid, but with respect to the creditors who shall come in under said assignment, and exhibit their demands as aforesaid, for a dividend, they shall be wholly barred from having afterwards any action or suit at law or equity against such debtors or their representatives; unless on the trial of such action, or hearing in equity, the said creditor shall prove fraud in the said debtor or debtors, with respect to the said assignment

or concealing his estate, real or personal, whether in possession, held in trust or otherwise.

1820.

15. *And be it enacted*, That the same fees shall be allowed in all proceedings under this act, to the judges and officers of the orphans' court, as are allowed for like services performed in the settlement of accounts of executors or administrators, under the laws of this state.

Fees allowed.

16. *And be it enacted*, That if the assignee or assignees who have been appointed, and have given surety according to the provisions of this act, should die before the final settlement of said estate, it shall be lawful for said surety to proceed to the final settlement of said estate, and perform every duty the said assignee or assignees could rightfully have performed, the said surety having first given additional surety for their faithful performance as aforesaid.

In case of the assignees' death, surety may act.

17. *And be it enacted*, That in case the said surety should die, or reasonable objections be made, by the creditors, against his acting as aforesaid, or refuse to act, the said orphans' court shall proceed to appoint some suitable person or persons to settle the same.

When the orphans' court may appoint a person to act.

A SUPPLEMENT to the act relative to dower.

PAM. 71-
See ante 897.

Passed the 24th of February, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if a husband shall hereafter devise to his wife, by a will duly executed to pass real estate, any lands or real estate for her life or otherwise, and without expressing whether such devise to her is intended to be in lieu or bar of dower, or not, and the said wife shall survive her said husband, that then the said wife so surviving, shall not be entitled to dower in any lands or real estate devised by her said husband, unless she shall, in writing, express her dissent to receive the lands or real estate so devised to her in satisfaction and bar of her right of dower in the other lands and real estate devised in and by the said will, and file the same with the surrogate of the county wherein she resides, or in which the lands or real estate devised to her shall be situated, within six months after the probate of the said will, and then and in that case she shall be considered as renouncing the benefit of the said devise to her.

A devise of real estate to a wife shall bar her dower, unless she shall express her dissent, &c.

2. *And be it enacted*, That it shall be lawful, after the passing of this act, for any widow entitled to dower in any lands or real estate, of which her husband died seized, or for any heir or heirs, or guardian of any minor child or children, entitled to any estate in the said lands or real estate, to apply, by petition, to the orphans' court of the county where the said lands or real estate are situated, for the appointment of commissioners to assign to such widow, her dower in the said lands and real estate; whereupon the said court shall appoint three discreet and disinterested

Orphans' court to appoint commissioners to set off dower.

1820.

freeholders in the said county, commissioners, to admeasure and set off, as speedily as conveniently may be, one third part of the said lands and real estate, as the said widow's dower, which commissioners, before they enter upon the duty assigned them, shall be sworn or affirmed before the surrogate or any other person authorized to administer oaths in the said county, faithfully, honestly and impartially to execute the trust reposed in them respectively.

Notice of application.

3. *And be it enacted*, That the party petitioning for the appointment of commissioners to assign and set off dower as aforesaid, shall give twenty days previous notice, in writing, to the other person or persons interested, and to the guardians (if any) of minor children, of the said intended application, by serving the same personally, or leaving it at his or her usual place of dwelling, or where any person entitled to notice of such intended application, shall not reside in this state, and shall not be served with notice as aforesaid, then notice may be given by advertisement, in a newspaper published in the county where the said lands or real estate are situated, or in the county nearest thereto, in which a newspaper shall be published, for at least four weeks successively, once, at least, in each week.

Duty of commissioners.

4. *And be it enacted*, That it shall be the duty of the said commissioners to make a full report of all their proceedings, with the distances and courses of the lands so assigned and allotted by them to the widow for her dower, and amount of their charges, to the court which appointed them, at the next or subsequent term, after their appointment, which report, if approved and confirmed by the court, shall be entered at large by the surrogate, on the records in his office, in some proper book for that purpose; and all persons concerned therein, shall be concluded by the judgment or decree of the said court, unless the same shall be set aside or reversed.

Appeal given to surrogate-general.

5. *And be it enacted*, That it shall be lawful for any widow, heir or heirs, or guardian of any minor child, who shall conceive himself or herself aggrieved by the proceedings, judgment or decree under this act, of any orphans' court, at any time within twenty days after the final judgment or decree, to give notice in writing, of the causes of complaint, and of his or her intention to apply to the surrogate-general, at the next stated term to be holden after such notice, for relief, who shall review the proceedings, judgment or decree complained of, and do therein what shall be just.

6. *And be it enacted*, That where a husband shall die seized of lands or real estate, in two or more counties, it shall be lawful for the ordinary or surrogate-general, to appoint commissioners to admeasure and set off dower as aforesaid, and to proceed therein in all respects as the orphans' courts are by this act authorized to proceed for the making admeasurement of dower as aforesaid.

7. *And be it enacted*, That after final sentence or decree hath been pronounced in any proceedings under this act, by the sur-

rogate-general, any person who may think himself or herself aggrieved by any proceedings, sentence or decree of the surrogate-general, may within thirty days, appeal against such proceedings, sentence or decree, to the court of appeals and of errors, before the governor and legislative council of this state.

1820.

Appeal to the court of appeals.

8. *And be it enacted*, That the fees to be allowed, taxed, and taken by the surrogates, orphans' courts and surrogate-general, and other officers, shall be the same as those allowed by law for similar services in other cases.

9. *And be it enacted*, That the charges of the commissioners for their services in making of the said admeasurement of dower, and the costs arising and accruing on any proceedings under this act, shall be taxed by the surrogate or clerk of the court in which the proceedings may be held, and paid in the first instance by the petitioner or petitioners. And the said costs and charges shall be divided and apportioned by the court, among the persons concerned, according to their respective interests in the lands and real estate, out of which the dower shall be so assigned. And in case any person or persons concerned, shall not, on demand, pay his, her or their proportion of such costs and charges, that then the petitioner or petitioners shall and may recover the same by the judgment and process of the court, or by an action of debt, in any court having cognizance thereof: but in all cases of appeal, each party shall pay his, her, or their own costs.

Costs, and manner of recovery.

10. *And be it enacted*, That after dower shall be assigned to a widow by virtue of this act, nothing in the second section of the act to which this a supplement, shall be considered as entitling her to remain in and to hold and enjoy the mansion-house of her husband, and the messuage or plantation thereto belonging, except such part thereof as may be assigned to her for dower, without being liable to pay rent for the same.

When widow to pay rent.

AN ACT for the gradual abolition of slavery, and other purposes respecting slaves.

PAM 74.

Passed the 24th of February, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every child born of a slave within this state, since the fourth day of July, one thousand eight hundred and four, or which shall hereafter be born as aforesaid, shall be free, but shall remain the servant of the owner of his or her mother, and the executors, administrators, or assigns of such owners, in the same manner as if such child had been bound to service by the trustees or overseers of the poor, and shall continue in such service, if a male, until the age of twenty-five years, and if a female, until the age of twenty-one years.

Term of service.

2. *And be it enacted*, That every person being an inhabitant of this state, who shall be entitled to the service of a child born as aforesaid, shall, within nine months after the birth of such

1820.

Certificate,
and what it
shall contain.

child, deliver or cause to be delivered to the clerk of the county whereof such person shall be an inhabitant, a certificate in writing, subscribed by him or her, containing the name and addition of such person, and the name, age, and sex of such child so born, and the name of the mother of such child, which certificate, whether the same be delivered before or after the said nine months, shall be, by the said clerk, recorded in a book provided by him for that purpose, and such record thereof shall be good evidence of the age of such child, and the clerk of such county shall receive from said person twelve cents for every child so registered; and if any person, directed by this act to deliver or cause to be delivered such certificate to the said clerk, shall hereafter neglect to deliver or cause to be delivered to the clerk as aforesaid, such certificate within the said nine months, such person shall forfeit and pay for every such offence, the sum of five dollars, and the further sum of one dollar for every month such person shall neglect to deliver or cause to be delivered the same, to be sued for and recovered by any person who will sue for the same, one half to the use of such prosecutor, and the other half to the use of the poor of the township in which such delinquent shall reside: *Provided*, That the sum so forfeited shall not exceed the sum of one hundred dollars.

Penalty for
neglect.

Penalty for de-
livering false
certificate.

3. *And be it enacted*, That if any person directed by this act, to deliver or cause to be delivered to the county clerk, a certificate as aforesaid, shall knowingly and wilfully deliver or cause to be delivered to the county clerk as aforesaid, any certificate containing a false relation of the time of the birth of such child, such person so offending shall forfeit and pay the sum of one hundred dollars for every such offence, to be prosecuted for, recovered and applied in manner aforesaid; and in favor of such child, or of the township in which such child's residence shall be, the true time of the birth of such child may be inquired into, before any court or magistrate, in any case where the true time of the birth of such child shall become material, notwithstanding the record of such certificate.

When one
overseer may
act.

See ante 373.

4. *And be it enacted*, That in case it shall happen in any of the townships of this state, that only one overseer of the poor for such township shall be elected, in such case it shall be lawful for one overseer of the poor of such township to sign the certificate required by the twenty-first section of the act, entitled "An act respecting slaves," which certificate shall be as good, valid, and effectual as if it should be signed by two overseers of the poor.

Proof of deed
of manumis-
sion.

5. *And be it enacted*, That in case any instrument or deed of manumission heretofore made and executed, or hereafter made and executed, shall be acknowledged by the party or parties who shall have executed the same, or be proved by one or more of the subscribing witnesses to it, that such party or parties signed, sealed, and delivered the same, as his or her voluntary act and deed, before one of the officers authorized by law to take the acknowledgment or proof of deeds of conveyance of lands, tenements, hereditaments, and real estate, or before one of the justices of the peace in any of the counties of this state, and such

certificate of such acknowledgment or proof shall be written under or upon such deed, and subscribed by the officer before whom made, then, and in that case, every such instrument or deed of manumission so acknowledged or proved, and certified, shall be received in evidence in any court of this state, in like manner as if the same were then and there proved by two witnesses.

1820.

6. *And be it enacted*, That it shall be the duty of the clerk of the court of common pleas of the county in which the owner of any slave shall reside at the time of manumitting such slave, to record in a well bound book of good paper, to be provided for that purpose, and well preserved, every instrument or deed of manumission acknowledged or proved, and certified as aforesaid, together with the acknowledgment or proof, and the certificate written on, or under the same, which shall be delivered to him to be recorded, to which book, every person shall have access at proper hours, and be entitled to transcripts from the same, on paying the fees allowed by law.

To be recorded.

7. *And be it enacted*, That the record aforesaid, of such instrument, or deed of manumission, or a copy of such record, certified to be a true copy by the clerk, in whose office the said record is kept, shall be received in evidence in any court of this state, and be as good, effectual and available in law, as if the original instrument or deed of manumission were then and there produced and proved.

Records and certified copies to be evidence.

8. *And be it enacted*, That the clerk shall deliver a receipt to the person who shall deliver to him any instrument or deed of manumission as aforesaid, mentioning therein the time when it was delivered to him, or brought to his office to be recorded, its date, and the names of the parties to it, and shall certify on, or under the said instrument, the time it was received, and the name and number of the book, and page or pages in which it is recorded; and when recorded, shall deliver it to the party entitled to it, or to his or her order, and the said clerk shall be entitled to receive for recording every deed of manumission, with the acknowledgment or proof, and certificate, for every sheet five cents, and for every copy of the same five cents, for every receipt six cents, and for every search seven cents.

Clerk to give receipt.

9. *And be it enacted*, That if any clerk of the common pleas in any of the counties of this state, shall neglect or refuse to perform any service or duty required of him by this act, he shall for every such neglect or refusal, forfeit and pay fifty dollars, to be recovered with costs, in an action of debt, by the county collector, and on recovery by him, to be paid over to the treasurer of this state, for the use of the state, and shall also be liable for all damages which the party aggrieved shall have sustained by reason of the non-performance of such service or duty.

Penalty on clerk for neglect of duty.

10. *And be it enacted*, That no negro, indian, mulatto or mestee slave, or servant, for life or years, shall hereafter be removed, exported, or carried out of this state, except as hereinafter provided.

Removal out of the state.

11. *And be it enacted*, That if any person shall send to sea, or

1820.

Penalty for
exporting a
slave contrary
to law.

export, or attempt to send to sea, or export from this state, or send or carry out of, or attempt to send or carry out of this state, except as hereinafter provided, any negro, indian, mulatto or mestee, slave or servant for life or years, every person so exporting, or attempting to export, or sending or carrying out of this state, or attempting to send or carry out of this state, such slave or servant, and his or her aiders or abettors, shall be deemed guilty of a misdemeanor, and on conviction in due course of law, shall be punished by fine not less than one thousand dollars, nor more than two thousand dollars, or imprisonment at hard labor, for any term not less than two years, nor more than four years, or both, at the discretion of the court before whom such conviction shall be had; and further, that every such slave or servant, so exported or carried out of this state, or attempted to be exported or carried out of this state, or sent to sea, shall be free.

Penalty for
selling a slave
to a person in-
tending to ex-
port such
slave.

12. *And be it enacted*, That if any person shall hereafter sell, transfer or assign, any such slave or servant, to any non-resident, or person not being an inhabitant of this state, or to any person intending to remove, or export, or carry such slave or servant out of this state, every person so knowingly selling, transferring or assigning such slave or servant, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not less than five hundred, nor more than one thousand dollars, or by imprisonment at hard labor, not less than one year, nor more than two years, or both, at the discretion of the court before whom such conviction shall be had: and further, that every such slave or servant so sold, transferred or assigned to any non-resident, or person not being an inhabitant of this state, or to any person intending to remove, or export, or carry away such slave or servant, out of this state, shall be free.

Penalty for
purchasing a
slave with an
intention to
export such
slave.

13. *And be it enacted*, That if any person shall purchase or take a transfer or assignment of any negro, mulatto, indian or mestee slave or servant, for life or years, with a design or intent to export, or send, or carry, such slave or servant out of this state, such person shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not less than one thousand dollars, nor more than two thousand dollars, or by imprisonment at hard labor, not less than two, nor more than four, years, or both, at the discretion of the court before whom such conviction shall be had; and further, that such slave or servant so purchased, transferred or assigned, shall be free.

Vessels equip-
ped for export-
ing slaves to be
forfeited

14. *And be it enacted*, That if any person or persons shall fit out, equip or man, or otherwise prepare any ship or other vessel, to sail from any port or harbor of this state, for the purpose of exporting or carrying out of this state, or sending to sea, any negro, mulatto, indian or mestee slave or servant for life or years, such ship or vessel, her cargo, tackle, furniture and apparel shall be forfeited, and shall and may be seized by any justice of the peace, sheriff or coroner within this state, and prosecuted by such justice, sheriff or coroner, making such seizure, by information in rem, in the supreme court of this state, or in the inferior court of

common pleas of the county in which such seizure shall be made, to which courts, jurisdiction of such causes is hereby given.

1820.

15. *And be it enacted*, That every ship or vessel, with her cargo, tackle, furniture and apparel, so seized as aforesaid, and against which judgment shall be had and obtained, shall, by order of the court in which such judgment shall be had, be sold by the sheriff of the county in which seizure was made, or in case the said sheriff be a party to the prosecution, then by one of the coroners of such county, having no interest therein, who, after deducting all legal costs and charges, to be taxed by the court in which such judgment was had, and two per cent. on the amount of such sale, for his fees on the same, shall pay one half of the nett proceeds thereof to the collector of the county in which the seizure was made, for the use of the state, and the remaining part thereof to the person or persons making such seizure and prosecuting the same to effect.

and sold.

Money, to whom to be paid.

16. *And be it enacted*, That it shall be lawful for any justice of the peace, sheriff or coroner, of any county within this state, to go on board of or enter any ship or vessel lying in any port or harbor of this state, for the purpose of making the seizure aforesaid, and if any master, seaman or other person, on board such ship or vessel, shall refuse or not suffer to enter, or resist before or after entering on board such ship or vessel, any justice of the peace, sheriff or coroner, attempting to enter on board, or being already on board such ship or vessel for the purpose of making seizure as aforesaid, every person so refusing or resisting such justice, sheriff or coroner, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not less than one thousand, nor more than two thousand, dollars, or imprisonment at hard labor, not less than two, nor more than four, years, or both, at the discretion of the court before whom the conviction shall be had.

What officers may go on board.

Penalty for resisting the officers.

17. *And be it enacted*, That it shall be lawful for every person who shall have resided five years within this state, and who shall be about to remove permanently therefrom, to carry with him or her every such slave as shall have been the property of such person during five years next preceding: *Provided always*, That before such person shall attempt to carry away such slave out of this state, he or she shall make satisfactory proof before the court of common pleas of the county in which he or she last resided, that such slave hath been his or her property during five years next preceding the time of such application to the court, and shall also prove, to the satisfaction of the said court, by the oath or affirmation of two credible witnesses, that such person so intending to carry away such slave out of this state hath resided within this state five years next preceding, and that such slave hath been in the service or employ of such person as a slave during that time, and shall obtain from said court a license, under the seal of the court, to carry such slave out of this state: *And provided also*, That such slave be of full age, and shall have consented to be carried out of this state upon private examination before the presiding judge of said court, or in case of his ab-

Who may remove their slaves.

Conditions to be performed.

1820.

sence, or in case there be no presiding judge of said court, before two of the judges of said court, whose certificate of such consent shall be then and there produced to the court, before the granting such license as aforesaid.

Penalty on masters of vessels in certain cases.

18. *And be it enacted*, That every master of a ship or other vessel, who shall knowingly receive on board any ship or other vessel, of which he is master, for the purpose of carrying out of this state any slave, for whose exportation a license hath not been obtained, as herein before directed, or who having ignorantly received on board of said ship or other vessel such slave, shall suffer such slave to depart from his ship or other vessel, in any place out of this state, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by fine not less than one thousand, nor more than two thousand, dollars, or imprisonment at hard labor, not less than two, nor more than four years, or both, at the discretion of the court.

Owner of a slave may take such slave with him in certain cases.

19. *And be it enacted*, That it shall be lawful for any inhabitant of this state, going out of the same on a journey to any other part of the United States, or for necessary business, to take with him or her any such slave or servant as aforesaid, but it shall be the duty of such inhabitant to bring back such slave or servant, and in default thereof he or she shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by fine not less than five hundred dollars, nor more than one thousand dollars, or by imprisonment at hard labor, not less than one year nor more than two years, or both, at the discretion of the court before whom the conviction shall be had, unless such inhabitant shall make proof, within six months after his or her return, to the satisfaction of two of the judges of the court of common pleas of the county in which he or she shall reside, that such slave or servant, not brought back as aforesaid, could not be brought back, by reason of some unavoidable accident, and obtain a certificate thereof, subscribed by the two judges before whom such proof shall be made, and file the same in the office of the clerk of the said county; and further, that every such slave or servant so taken out of this state, and not brought back as aforesaid, shall be free: *Provided nevertheless*, That nothing herein contained shall be construed to authorize or allow the taking away such slave or servant in any ship or vessel going to sea.

Criminals may be transported.

20. *And be it enacted*, That nothing herein contained shall be understood, construed or taken as intending to prevent the sending or exporting out of this state, any slave who hath been or hereafter may be sentenced to transportation on conviction of any crime or crimes, by virtue of any statute of this state now in force or hereafter enacted.

Exceptions as to persons not inhabitants.

21. *And be it enacted*, That it shall be lawful for any person not an inhabitant of this state, who shall be travelling to or from or passing through this state, or coming into this state from any other of the United States, and having a temporary residence in this state, to bring with him or her any such slave or servant as aforesaid, and on removal or leaving this state, to take such slave

or servant out of this state: *Provided*, That the number of such slaves or servants shall not exceed the usual number of personal or household slaves or servants kept and maintained by said traveller or temporary resident.

1820.

22. *And be it enacted*, That the twentieth section of an act, entitled "An act respecting slaves," passed the fourteenth day of March, one thousand seven hundred and ninety-eight; and the act, entitled "An act for the gradual abolition of slavery," passed the fifteenth day of February, one thousand eight hundred and four; and the act, entitled "An act supplementary to the act respecting slaves," passed the third day of December, one thousand eight hundred and four; and the act, entitled "An act supplemental to the act, entitled an act respecting slaves," passed the first day of February, one thousand eight hundred and twelve; and the act, entitled "An act to prohibit the exportation of slaves or servants of color out of this state," passed the fifth day of November, one thousand eight hundred and eighteen; and the supplement thereto, passed the nineteenth day of February, one thousand eight hundred and nineteen, be, and the same are hereby repealed: *Provided always*, That such repeal shall in no way affect or annul any indictment or other proceeding had or to be had under the said acts or any of them, for offences against the same, but that the same may be proceeded in and prosecuted to effect in regard to all or any offences heretofore committed against those acts thus repealed, or any of them, in the same manner as if this repealing section had not been made; and provided also, that all rights acquired, or transactions legally had and done under said repealed acts, or any of them, shall be as valid and effectual as though this repealing section had not been made.

Acts repealed.

AN ACT directing the mode of entering judgments upon bonds with warrants of attorney to confess judgments.

PAM. 83.

Passed the 24th of February, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That in all cases where a bond or other obligation is given for the payment of money only, together with a warrant, under hand and seal, directed to any attorney at law or other person, to appear in any court of record to an action brought, or to be brought on such bond or obligation, against the person or persons executing the same, and to confess a judgment against him, her or them, for the sum mentioned in such bond and warrant of attorney, with costs of suit, or to the like effect, it shall and may be lawful for the obligee or obligees, his, her or their executors, administrators or assigns, at any time after the day of payment mentioned in said bond or obligation, to apply to any of the justices of the supreme court, or to any one of the judges of the inferior court of common pleas, in any of the counties of this state, and on the production of such bond or obligation, with the war-

Mode of entering judgments on warrants to confess, &c.

1820.

rant of attorney, it shall be the duty of such justice or judge, at the request of the person applying as aforesaid, at the end of a fair copy of such bond or obligation and warrant of attorney, made on a whole sheet of paper, for that purpose, to enter or cause to be entered an appearance for the obligor or obligors to an action of debt, as of the last precedent term of the court of which the said justice or judge is a member, and a confession and judgment against him, her or them, for the sum mentioned in the said bond or obligation and warrant of attorney, signed by the said justice or judge, in the following form, to wit:

Supreme court of New-Jersey, (or inferior court of common pleas, as the case may be) of the term of

A. B.	}	In debt on bond and warrant of attorney.
against		
C. D.		

The defendant's appearance to this action is entered, and judgment confessed to the plaintiff for the sum mentioned in the above obligation, by virtue of the warrant of attorney thereunto annexed, and pursuant to the directions of an act, entitled "An act directing the mode of entering judgments on bonds with warrants of attorney, to confess judgments," whereupon it is considered that the said A. B. do recover against the said C. D. the sum of debt, and four dollars costs of suit, judgment signed this day of E. F.

Papers to be delivered to the clerk of the court.

2. *And be it enacted*, That the copy of the bond and warrant of attorney to confess judgment, with the entry of the judgment thereon, as before directed, signed by the justice or judge, shall be delivered by the plaintiff or person applying for such judgment to the clerk of the supreme court, in cases where the judgment is signed by a justice of the supreme court, or to the clerk of the inferior court of common pleas of the county where the judgment is entered, and of which the judge is a member; in cases where the judgment is signed by a judge of the common pleas, and the clerk shall immediately file the same in his office, marking thereon the time of filing the same, and shall enter the judgment in the minutes of the court, and all the proceedings on which such judgment shall be founded as aforesaid, and the judgment itself, at large, in the judgment-book of said court, and index the same as in other cases of judgment.

Such judgments to be valid.

3. *And be it enacted*, That all judgments entered as before directed, shall be as good and effectual in law, to all intents and purposes whatsoever, as judgments entered by confession, in the manner heretofore practised, and no such judgment shall be reversed for error, or misprision of the clerk in entering the same, or defect of form in the entry thereof, and execution shall issue thereon, as in cases of judgments entered by confession in the manner heretofore practised.

What judgments to be entered only as aforesaid.

4. *And be it enacted*, That all judgments on bonds or obligations for the payment of money only, in virtue of a warrant of attorney to confess judgments thereon, shall be entered as in and by the first and second sections of this act is directed, and not otherwise.

5. *And be it enacted*, That no judgment shall be entered in any court of record of this state, on a bond or obligation and warrant of attorney, to confess judgment thereon, unless the plaintiff or his attorney shall produce, at the time of confessing such judgment to the court, justice or judge, before whom such judgment shall be confessed, an affidavit of the plaintiff, his attorney or agent, stating therein the true consideration of the said bond or obligation, and that the debt for which judgment is confessed is justly due and owing to the person or persons to whom the judgment is to be confessed, and that the said judgment is not confessed to answer any fraudulent purpose, or to protect the property of the defendant from his creditors, which affidavit shall be filed with the papers in the cause.

1820.

Affidavit previous to entering judgment.

6. *And be it enacted*, That the affidavit required by this act, may be made before any justice of the supreme court, judge of any inferior court of common pleas, commissioner for taking affidavits, or justice of the peace, in this state; or if the plaintiff be out of this state, before any court of judicature or notary public of the state, kingdom or nation in which the said plaintiff resides or shall happen to be.

Before whom the affidavit may be made.

7. *And be it enacted*, That the following and no other fees shall be allowed, viz.: to the plaintiff for the copy of the bond or obligation, and warrant of attorney, entering the proceedings thereon, attending before the justice or judge to obtain the judgment, and delivering the same, with the affidavit, to the clerk to be filed, two dollars; to the justice or judge for inspecting the bond and warrant, examining the copies, and entering and signing judgment, fifty cents; to the clerk for marking and filing the proceedings and affidavit, and entering the judgment in the minutes of the court, fifty cents; and for entering the proceedings and judgment at large in the book of judgments, one dollar; and when execution shall issue on any judgment, the following additional fees shall be allowed, and no other, to wit: to the plaintiff for drawing the execution, twenty-five cents; to the clerk for sealing and recording the execution, and entering and filing the execution and return of the sheriff, seventy-five cents; which costs shall be endorsed on the execution without taxation, and collected with the debt, but to be paid by the plaintiff as the duty is performed; and further, that the sheriff shall be entitled to execution fees as in other cases.

Fees allowed.

8. *And be it enacted*, That in case any clerk of the supreme court, or of any inferior court of common pleas, shall take other or greater fees for services done under this act, than are by this act allowed, or shall take such fees without performing the services for which such fees are allowed, he shall, for every such offence, forfeit and pay the sum of thirty dollars, to be sued for and recovered in an action of debt, with costs of suit, in any court having cognizance thereof, by any person who shall be aggrieved by the same.

Penalty on clerks for taking fees not allowed.

9. *And be it enacted*, That the act, entitled "An act directing the mode of entering judgments upon bonds, with warrants to confess judgments," passed the ninth day of March, seventeen

Acts repealed.

1820.

hundred and ninety-eight, and two supplements thereto, one passed the twenty-second day of February, eighteen hundred and eleven, and the other the twenty-eighth day of February, eighteen hundred and four; and the act, entitled "An act to prevent the fraudulent confession of judgments," passed the twenty-ninth day of January, eighteen hundred and seventeen, be, and the same are hereby repealed: *Provided*, That all judgments and proceedings had, done, or entered under them, or any of them, shall be as good, effectual, and available in law, and execution issue thereon, as though this act had not passed.

PAM. 90.

AN ACT the better to promote the impartial administration of justice.

Passed the 24th of February, 1820.

Who shall not sit in judgment upon the trial of a cause.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That no justice or judge of any court of record in this state, who shall be related in the third degree to either of the parties, in any cause depending in such court, or be interested in the event of any such cause, or shall have been attorney on record, or counsel for either party, in any such cause, or shall have given his opinion upon the matter in question, in any such cause, shall sit in judgment upon the trial or argument of any point in controversy in any such cause; and that the degrees of kindred, in such case, shall be calculated according to the common law manner of computation: *Provided nevertheless*, That any matter or thing herein contained, shall not be construed to prevent any justice or judge from sitting on the trial or argument of any point in controversy in such cause, merely because he may have given his opinion in any other cause where the same matter in controversy shall have come in question, nor from his having given his opinion on any question in controversy in the same cause, in the course of the previous proceedings therein.

Proviso.

What judges excluded from striking a jury.

2. *And be it enacted*, That no justice or judge of any court of record in this state, who shall be related in the third degree, as aforesaid, to either of the parties, in any cause depending in such court, or shall be interested in the event of any such cause, or shall have given his opinion in either of the said relations upon the matter in question, in said cause, shall nominate or strike the jury in any such cause.

Challenges, when to be made and how tried.

3. *And be it enacted*, That all challenges to a justice or judge, for the causes aforesaid, shall be made previous to the trial or argument, and the court may try such challenges, or appoint three indifferent persons triors for that purpose, at the discretion of the court, and that the finding of a majority of such triors, shall be received as the determination of such triors.

Judge of a court of common pleas not to act in certain offices.

4. *And be it enacted*, That no judge of any court of common pleas in this state, shall act as clerk of the court of which he is a judge, nor as attorney at law, or counsellor in any court in this

state, any license to practice law, custom, or usage, to the contrary notwithstanding.

1820.

5. *And be it enacted*, That the act, entitled "An act the better to promote the impartial administration of justice," passed the tenth day of March, one thousand seven hundred and ninety-seven, and the supplement thereto, passed the sixth day of March, one thousand eight hundred and six, be, and the same are hereby repealed.

Acts repealed

A further supplement to the act, entitled "An act to preserve and support the jurisdiction of this state."

PAM. 106.
See ante 614.

Passed the 26th of February, 1820.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That every plaintiff in any proceeding, judgment or decree, which shall be had, passed or rendered, in pursuance of any process served or executed within the state of New-Jersey, contrary to the provisions of the act, entitled "An act to preserve and support the jurisdiction of this state," passed December third, one thousand eight hundred and seven, shall be liable to all damages, expenses and charges, to be recovered with triple costs, in an action of trespass, or trespass upon the case, to be brought by the parties aggrieved or injured, in the supreme court, or any other court of this state having cognizance thereof, or by writ of attachment, in case the plaintiff, in any such proceeding, judgment or decree, shall not be resident in this state.

Plaintiff, in certain cases, liable to all damages, &c.

2. *And be it enacted*, That in case any person or persons shall, under color of any law of the state of New-York, seize or take into possession any boat or vessel whatever, moved by steam or fire, belonging, or to belong, in part or in whole, to a citizen or citizens of New-Jersey, for being employed or used in navigating any of the waters between the ancient shores of the states of New-Jersey and New-York, without a license first had and obtained, of the person or persons entitled to, or claiming to be entitled to an exclusive right or privilege to navigate the waters of the state of New-York (under a law of that state) with boats or vessels moved by steam or fire, the person or persons so seizing or taking possession of any such boat or vessel as aforesaid, belonging, or to belong, in part or in whole, to a citizen or citizens of the state of New-Jersey, as aforesaid, shall be liable to the person or persons aggrieved or injured thereby, for all damages, expenses and charges sustained by occasion thereof, to be recovered with triple costs, in an action of trespass, or trespass upon the case, to be brought in the supreme court, or any other court having cognizance of the same, or by a writ of attachment, in case the person or persons making such seizure, or taking possession as aforesaid, under or by virtue of a law of the state of New-York, shall not be resident in this state.

Vessels seized under color of a law of New-York, damages to be recovered.

3. *And be it enacted*, That if any citizen of the state of New-

1820.

Citizens of
New-Jersey
enjoined, &c.

Jersey, shall hereafter be enjoined or restrained by any writ of injunction, or order of the court of chancery of the state of New-York, by virtue, or under color of any act of the legislature of that state, from navigating with any boat or vessel moved by steam or fire, belonging, or to belong, in part or in whole to him, the waters between the ancient shores of the states of New-Jersey and New-York, the plaintiff or plaintiffs in such writ or order, shall be liable to the person or persons aggrieved, for all damages, expenses and charges occasioned thereby, to be recovered with triple costs, in an action of trespass, or trespass upon the case, in any court having cognizance thereof, or by a writ of attachment, in case the plaintiff or plaintiffs in any such writ or order of the court of chancery of the state of New-York, shall not be resident in the state of New-Jersey.

Authority given to the court of chancery to restrain by injunction in certain cases.

4. *And be it enacted*, That it shall and may be lawful for the court of chancery of the state of New-Jersey, on a bill of complaint, filed by any citizen or inhabitant of this state, for that purpose, to enjoin or restrain, by a writ of injunction, the plaintiff or plaintiffs in any such writ or order of the court of chancery of the state of New-York, or any person or persons claiming a right derived from or under such plaintiff or plaintiffs, to navigate any of the said waters, from navigating with any boat or vessel moved by steam or fire, the waters within the jurisdiction of this state, and from bringing or transporting any passenger or passengers to and from the city of New-York, or from Staten-Island, into the state of New-Jersey, whether such transportation be effected directly or circuitously, or by means of one or more boats of any description, or by shifting from one boat to another, at any intermediate point between the city of New-York and Staten-Island, and the shores of New-Jersey; *Provided* said passenger or passengers shall be conveyed part of the way from New-York, in any boat propelled by steam or fire, that then and in such case, it shall be the duty of the chancellor to enjoin and restrain all and every person or persons whatsoever, from aiding or assisting in any such transportation of passengers, during the continuance in force of any such writ or order of the court of chancery of the state of New-York.

Proceedings by writ of attachment.

5. *And be it enacted*, That in case the party aggrieved, shall proceed by virtue of this act, by writ of attachment, the proceedings shall be in like manner, as near as may be, as is directed by the act, entitled "An act for the relief of creditors against absconding and absent debtors," passed the eighth of March, one thousand seven hundred and ninety-eight, against an absconding debtor, excepting that instead of the oath or affirmation required by the said act, the applicant for such writ of attachment shall, before the sealing thereof, make oath or affirmation, which shall be filed in the office of the clerk of the court out of which the attachment shall be issued, before any judge or justice of the peace in this state, that the person or persons, against whose estate the attachment is to be issued, is not to his knowledge or belief, resident at that time in this state, and of the nature of the injury sustained.

6. *And be it enacted*, That it shall and may be lawful for the governor or person administering the government of this state, to cause to be enforced and effectuated, the just rights of the state, according to all the provisions contained in the act, entitled "An act to preserve and support the jurisdiction of this state," passed December third, one thousand eight hundred and seven; to bring to a determination, the jurisdictional rights of the state of New-Jersey, in and over all the territory and waters lying between the state of New-Jersey and the state of New-York; and for the more speedy determination of the same, to cause to be prosecuted or defended, any suit or suits, which may now, or hereafter shall exist, in which either or both of the questions, as to the rights of this state, may arise; *Provided* the party in such suit or suits, who may be interested in maintaining the rights of the state, agree thereto.

1820.

Authority given to the governor, &c.

7. *And be it enacted*, That it shall and may be lawful for the governor of this state, to call to his assistance for advice and consultation, in any of the proceedings on this or other acts in force, on the subject aforesaid, the attorney-general, or the privy council, or both, at the expense of this state; and he or they, or any of them, together with him, are hereby authorized and empowered, to do all things concerning the same, which in their discretion may by him, or with any of them, be deemed to be to the best interest of this state, to bring to a determination or final adjustment, all differences between the two states, by the appointment of commissioners, defending or prosecuting of suit or suits, or otherwise; and any report of commissioners appointed, shall become binding on this state, and the state of New-York, when confirmed by the respective legislatures thereof: *Provided always*, That nothing in this act contained, shall be so construed as to have any operation against any patent right or privilege obtained under the constitution or laws of the United States: *And provided also*, That this act shall go into operation from and after the first day of April next.

Governor may call to his assistance for advice, &c.

Proviso.

A SUPPLEMENT to an act, entitled "An act to regulate the practice of the courts of law."

PAM. 80.
See ante 413.

Passed the 28th of February, 1820.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the summons required by the eighteenth section of the act to which this is a supplement, to be served six entire days before the return day thereof, shall be valid and effectual in case the same shall be served two entire days on the defendant, before the said return day.

Time of serving summons.

2. *And be it enacted*, That the time of twenty days, in which the plaintiff is required, by the fifty-first section of the act to which this is a supplement, to file his declaration, shall henceforth be, and the same is hereby extended to thirty days.

Filing declaration.

1920.

Cases in which
notice of filing
pleadings ne-
cessary.

3. *And be it enacted*, That in case the party, plaintiff or defendant, shall not file his or her declaration, plea or other pleading in the cause, by the time required by law, and shall think proper to file the same after the expiration of such time, the party, in such case, shall furnish the adverse party with notice in writing, of the time of filing such declaration, plea or other pleading, and the said adverse party shall not be bound to take notice of the same until such notice shall be received.

Time of filing
pleadings after
notice.

4. *And be it enacted*, That in cases where any declaration, plea or other pleading, shall be filed after the time allowed by the act to which this is a supplement, no subsequent pleading shall in any case be required in a shorter time than thirty days from the time notice, as aforesaid, shall be given of the time of filing such declaration, plea or other pleading.

Serving writs
of scire facias.

5. *And be it enacted*, That henceforth no judgment shall be entered in any of the courts of record in this state, on suits which shall be commenced by writs of scire facias, or execution issue on judgments attempted to be revived by scire facias, unless the sheriff or other officer to whom the writ of scire facias shall be directed, shall actually have served the same, either personally on the defendant, or by leaving a copy of the writ with some white person of the age of fourteen years, at his or her usual place of abode, at least six entire days before its return, or as directed in the next section of this act.

Proceedings in
case defendant
is out of the
jurisdiction of
the court.

6. *And be it enacted*, That whenever a writ of scire facias shall issue, either to recover a forfeited recognizance or to revive a judgment, and the defendant has removed out of the jurisdiction of the court issuing such process, or cannot be found by the sheriff or other officer to whom the writ shall be directed, it shall and may be lawful for the plaintiff to proceed as though the said writ of scire facias had been duly served, in the manner prescribed in the next preceding section of this act, provided the said plaintiff first cause the said writ to be published four successive weeks in one of the newspapers printed in this state, as near the last residence of the defendant as can be conveniently ascertained, or cause a copy of the said writ to be served on the defendant, wherever found, either in this state or in any other place, at least twelve days before the return thereof.

Time of allow-
ing writs of
certiorari.

7. *And be it enacted*, That no writ of certiorari shall be allowed or issued on any judgment, order or proceeding that shall have been entered or obtained in any court of record of this state, or that shall hereafter be entered or obtained, unless the same be issued in eighteen months after the entering or obtaining the same.

Time of allow-
ing writs of
error.

8. *And be it enacted*, That no writ of error, from any court of common law, shall be brought or allowed on any judgment that shall have been, or hereafter may be entered or obtained, unless the same shall be had and done within three years after the judgment rendered: *Provided*, That in cases where the person entitled to such writ of error be an infant, feme covert or insane, he or she shall have three years to bring such writ of error, after such disability shall be removed.

9. *And be it enacted*, That the recognizance mentioned in the sixth and seventh sections of the act, entitled "An act respecting writs of error," in cases where judgment has been, or hereafter shall be rendered in the supreme court, may be acknowledged before any one of the justices of the supreme court, at his chambers, or before any one of the commissioners appointed by the supreme court, to take recognizance of bail; and such recognizance, when acknowledged before any one of the said justices or commissioners, and filed in the supreme court, shall be as good and effectual in law as if the same had been acknowledged in the supreme court, before the justices thereof, in open court, and when judgment has been or shall be rendered in any of the inferior courts of common pleas in this state, the said recognizance may be acknowledged before any one of the judges of the court wherein such judgment has or shall be rendered at his chambers, and said recognizance, when acknowledged as aforesaid, and filed in said court, shall be as good and effectual in law as if the same had been acknowledged in the said inferior court of common pleas, in open court.

1820.
Before whom
certain recog-
nizances may
be acknow-
ledged
See ante 401.

10. *And be it enacted*, That the recognizance mentioned in the eighth section of the act, entitled "An act respecting writs of error," may be acknowledged before any one of the justices of the supreme court, at his chambers, in such reasonable sum as such justice shall think fit; and such recognizance, when acknowledged before one of the justices of the supreme court, as aforesaid, and filed in the said supreme court, shall be as good and effectual in law as if the same had been acknowledged in the supreme court, before the justices thereof, in open court.

Certain recog-
nizances ac-
knowledged
before a jus-
tice of the su-
preme court.
See ante 401.

11. *And be it enacted*, That when a writ of error shall be issued, pursuant to the laws of this state, directed to the justices of the supreme court, or the judges of any of the inferior courts of common pleas of this state, and presented to the court, such writ of error shall stay execution: *Provided*, the plaintiff in error shall, within fifteen days from the time the said writ of error shall be so presented, file in the court wherein the judgment shall be rendered, such recognizance of bail, duly taken as by law is or shall be required; but such recognizance shall not stay execution, as aforesaid, unless the same shall be presented in the term in which such judgment shall be rendered, or within fifteen days thereafter, to the chief justice, in case the judgment shall be rendered in the supreme court, or to the presiding judge of the common pleas, in case the judgment shall be rendered in the common pleas, or in case there shall not be any presiding judge of the common pleas, then to one of the judges of the said common pleas, in which the said judgment shall be rendered.

Execution
stayed by writ
of error.

Conditions to
be performed.

12. *And be it enacted*, That the notice of trial, mentioned in the sixty-fifth section of the act to which this is a supplement, shall be twenty days, exclusive of Sundays, when the action is in the supreme court of this state; and fifteen days, exclusive of Sundays, when the action is in any of the courts of common pleas of this state.

Notice of trial.

13. *And be it enacted*, That a return made by any one or

1820. more of the coroners of any county, of process for summoning of juries, shall be as effectual as if such return had been made and signed by all the coroners of such county, any thing in the third section of the act, entitled "An act respecting coroners," passed the eighth day of March, one thousand seven hundred and ninety-six, to the contrary notwithstanding.

Return of coroners.
See ante 232.

Acts repealed. 14. *And be it enacted*, That the act, entitled "An act respecting writs of scire facias," passed the fourteenth day of March, eighteen hundred and six; and the act, entitled "An act concerning writs of error and writs of certiorari," passed the twenty-second day of February, eighteen hundred and eleven; and the act, entitled "An act respecting writs of scire facias," passed the twenty-eighth day of November, eighteen hundred and nine; and an act, entitled "A supplement to the act, entitled an act respecting writs of error," passed the tenth day of February, eighteen hundred and nineteen; and the eleventh section of the act, entitled "An act respecting writs of error," passed the first day of February, seventeen hundred and ninety-nine, be, and the same are hereby repealed: *Provided nevertheless*, That such repeal shall not render ineffectual any thing lawfully done under them or either of them.

PAM. 88.
See ante 317.

AN ACT concerning the boards of chosen freeholders.

Passed the 28th of February, 1820.

Money to be accounted for to the board of chosen freeholders.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That all fines, penalties, forfeitures or other moneys, directed by any statute or law of this state to be paid to the board of justices and chosen freeholders of the county, and all officers or other persons, directed by any statute or law of this state, to account with the said board of justices and chosen freeholders, such fines, penalties, forfeitures or other moneys, shall be paid to, and the said officers or other persons shall account with, and be amenable to, the board of chosen freeholders of the county.

Certain property vested in said board.

2. *And be it enacted*, That the goods, chattels, lands, tenements and hereditaments, which have been granted, conveyed or vested to or in the board of justices and chosen freeholders of any county, or any person or persons, for the use of such county, shall be and are hereby transferred to, and vested in, the board of chosen freeholders of the said county, and shall be, remain and enure to and for the use and benefit of such county, in the same manner and according to such estate, title and interest as the said board of justices and chosen freeholders, or other person or persons had therein.

In what case may adjourn.

3. *And be it enacted*, That in case a sufficient number of chosen freeholders of a county, to constitute a board, shall not attend at the time and place of the annual or other legal meeting of the board of chosen freeholders, it shall be lawful for the attending members to adjourn the meeting of the board to such time as they shall think proper.

4. *And be it enacted*, That the boards of chosen freeholders in the several counties of this state, and their successors in office, shall have full power and authority to sell and convey any lands, tenements, hereditaments, goods and chattels, holden or hereafter to be holden by them, for their respective counties, they appropriating the proceeds of such sale or conveyance to the legal use of such county.

1820.

May sell lands,
&c.

5. *And be it enacted*, That when the board of chosen freeholders of any county shall, at their annual meeting, refuse to go into the measure of building or purchasing a poor-house, according to the provisions of the act, entitled "An act to incorporate the chosen freeholders in the respective counties of this state," in case the said board shall be requested so to do by the chosen freeholders of any township or townships of said county, the said chosen freeholders being authorized, by a vote of the town-meeting of the township or townships from which they shall be chosen, to make such request, the said refusal shall be entered on the minutes of the said board, whereupon such township or townships, so by their chosen freeholders making such request, may then proceed to build or purchase a poor-house, according to the directions of the act, entitled "An act for the settlement and relief of the poor;" and every such township or townships, after they have built or purchased such poor-house, or have commenced building the same, shall not be liable to pay or contribute, in any manner whatsoever, towards building or purchasing any poor-house that may afterwards be directed to be built or purchased, by the board of chosen freeholders of such county, nor to the support of the poor of the county, unless by and with the consent of a majority of the inhabitants of said township or townships, manifested by a public vote, at an annual town-meeting, nor unless the board of chosen freeholders shall pay to such township or townships, the full value of all the lands, buildings and improvements which may by them have been built, purchased or otherwise provided for the purposes aforesaid, and in which case it shall be lawful for the overseers of the poor of such township or townships, under their hands and seals, to make a deed or deeds of conveyance, to the boards of chosen freeholders, for all such lands, tenements, hereditaments and real estate, so paid for, as aforesaid: *And further*, That the provisions in this section contained, shall extend to and include every township that hath heretofore built or purchased a poor-house, with the lands on which the buildings and improvements shall have been erected.

Townships
may build
poor-houses
in certain
cases.

See ante 43.

Their exemp-
tions.Extended to
certain town-
ships.

6. *And be it enacted*, That the act, entitled "An act concerning the boards of chosen freeholders," passed the tenth day of June, seventeen hundred and ninety-nine; and the act, entitled "A supplement to an act, entitled an act incorporating the chosen freeholders in the respective counties in this state," passed the first day of March, eighteen hundred and four; and the act, entitled "A supplement to the act, entitled an act to incorporate the chosen freeholders in the respective counties of this state," passed the twelfth day of February, eighteen hundred and seventeen, be, and the same are hereby repealed: *Provided nevertheless*,

Acts repealed.

1820.

That nothing in this repealing section contained, shall in any way invalidate or impair any matter or thing heretofore legally done or transacted under them, or either of them; but the same shall be valid and effectual, and all rights or interests acquired under them, unimpaired, and remain the same as if this repealing section had not been made.

AN ACT concerning Idiots and lunatics.

.PAM. 91.

Passed the 26th of February, 1820.

How determined.

Guardian appointed, and duty.

Payment of debts.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That all cases of idiocy and lunacy, shall be determined by an inquest, on a commission of idiocy or lunacy, issued out of the court of chancery, and returnable thereto, and the proceedings thereon shall be as heretofore practised, and in cases of idiocy or lunacy found, the chancellor shall cause to be transmitted to the orphans' court of the county where such idiot or lunatic may reside, a certified copy of all proceedings which may be had thereon, which shall be recorded and filed in the surrogate's office of said county, and the said orphans' court is hereby directed and required, on further application for that purpose, to appoint some fit and discreet person or persons, guardian or guardians of such idiot or lunatic, who shall have the care and safe keeping of said idiot or lunatic, his or her lands, tenements, goods and chattels, that the said idiot or lunatic may live and be competently supported and maintained by and out of his or her goods, chattels, and the profits of his or her lands and tenements, and that no waste or destruction of his or her lands or tenements, be done or permitted, and such lands shall in no wise be aliened, saving that the same be done by authority of this or some other statute of this state; but shall, upon the death of any such idiot, descend and go to his or her heirs, and the residue of the goods, chattels and profits of said idiot, after payment of his or her just debts, shall go to, and be distributed according to law, among his or her next of kin; and in case any such lunatic shall come to his or her right mind, that the lands and tenements, with the residue of the goods, chattels and profits of such lunatic, be restored to him or her, and in case he or she shall die in his or her lunacy, such lands and tenements shall descend and go to his or her heirs, and the residue of the goods, chattels and profits, after payment of his or her just debts, shall go to, and be distributed according to law, among such lunatic's next of kin.

2. *And be it enacted,* That if any such idiot or lunatic, is justly indebted to any person or persons, beyond his or her ability to pay the same out of his or her personal estate, or in case the personal estate of such idiot or lunatic, together with the profits of his or her lands and tenements, shall be insufficient for his or her support and comfortable maintenance, and that of his or her household, if any he or she shall have, it shall and may be lawful

1820.

for the orphans' court of the county in which the lands and tenements of any such idiot or lunatic shall be situate, on full investigation of the situation and circumstances of the said idiot or lunatic's real and personal estate, and of the just debts, owing by him or her, from time to time, to order the guardian of such idiot or lunatic, to sell such parts of the said idiot or lunatic's lands, tenements, hereditaments and real estate, as the said court shall direct and judge sufficient to pay his or her just debts, and proper and necessary for his or her support and maintenance, and for the support of his or her household, if any he or she have.

Order for sale
of lands, &c.

3. *And be it enacted*, That the lands, tenements and real estate of such idiot or lunatic, so ordered to be sold, shall be advertised one month in a newspaper circulating in the neighborhood where such lands are situate, and in five of the most public places in the county, for the space of two months previous to the time appointed for the sale thereof, by the guardian or guardians of such idiot or lunatic, who shall, at the time and place so advertised, sell the same at public vendue, to the highest bidder, and make report in writing, of all proceedings thereon, to the next orphans' court, after such sale: *Provided always*, That the said guardian or guardians, may adjourn the same from time to time at their discretion.

Advertisement.

4. *And be it enacted*, That the said guardian or guardians shall make a deed to the purchaser or purchasers, for the lands, tenements, hereditaments and real estate so sold, which deed shall set forth the said order at large, and shall vest in the purchaser or purchasers, as good and perfect an estate in the premises so sold, as the said idiot or lunatic shall be seized of, or entitled to, at the time of making said order by the court.

Deed.

5. *And be it enacted*, That every person appointed guardian as aforesaid, shall, before he enters upon the duties of his appointment, enter into bond to the governor of this state, and his successors in office, with two or more sureties, being freeholders, approved of by the orphans' court, in such sum as said court shall order and direct, conditioned that the said guardian shall well and truly take care of the person and estate of said idiot or lunatic, and of all writings and evidences touching his or her lands, and render the same to such person or persons, as by law, are or may be entitled to receive the same, and render a just and true account of the rents, issues and profits of the real estate of the said idiot or lunatic, and if any part should be ordered to be sold, that he or she will render a just and true account of the money arising on the sale thereof, and in the mean time improve the said lands and tenements, to the best advantage, and that he or she commit no waste or destruction thereof or thereon, and also, that he or she will render a true account of the expenditures, and disbursements of the goods, chattels and personal estate of said idiot or lunatic, that shall come to his or her hands.

Guardian to
enter into
bond, &c.

6. *And be it enacted*, That the orphans' court, when they shall know, or have cause to suspect that the sureties of a guardian of any idiot or lunatic, or any of them, are or is failing, or in dubi-

1820.

ous circumstances, may require said guardian to give additional surety or sureties, and if he or she refuse or neglect so to do, may displace him or her, and on application, appoint another person, guardian to said idiot or lunatic.

Guardian to
account.

7. *And be it enacted*, That it shall be the duty of every guardian of any idiot or lunatic, once in three years, and oftener in case the orphans' court shall so order and direct, to render to the orphans' court, from whom he or she received his or her appointment as guardian, a true account of his or her administration of the estate of the said idiot or lunatic, and he or she may be cited by the said court to do the same, on the application of any one of the heirs or next of kin, to the said idiot or lunatic, and on the death of any such idiot or lunatic, or the coming of sane mind of any lunatic, the guardian of such idiot or lunatic may be compelled to render an account of his or her administration of the estate of such idiot or lunatic, to the orphans' court, in the same manner as executors and administrators are compelled by law to render an account of the administration of the estate of testators and intestates; and in case of the death of any idiot or lunatic, when the lands, tenements, hereditaments, or real estate, or any part thereof, hath been sold by order of the orphans' court, and at his or her death, personal estate shall remain in the hands of the guardian, more than sufficient to pay the just debts of such idiot or lunatic, so much thereof as shall be equal in value to the real estate so sold, shall be deemed and taken to be real estate, and go to the heirs of the deceased, the personal estate, and the rents, issues and profits of the real estate, being the fund first to be applied to the support and maintenance of the idiot or lunatic.

How dis-
charged from
prison or ar-
rest.

8. *And be it enacted*, That no idiot or lunatic, during the time of his or her lunacy, shall be, or stand committed, or detained in prison for want of bail, or his or her body taken in execution, in any civil action, or in any action for a penalty, and in case any idiot or lunatic shall be arrested and detained in custody, in any civil suit, contrary to the true intent and meaning of this act, he or she shall be discharged, on motion, by the court out of which the process issued, on which he or she is so held in custody, or upon a writ of habeas corpus issuing out of the court of chancery or the supreme court, and allowed by the chancellor, or one of the justices of the supreme court, returnable forthwith, before the chancellor, or any one of the justices of the supreme court.

Proceedings,
when dan-
gerous to go at
large.

9. *And be it enacted*, That it shall and may be lawful for any two justices of the peace, of the county in which any lunatic furiously mad or dangerous to be permitted to go at large, shall be found, by warrant under their hands and seals, directed to the overseer or overseers of the poor, of the city or township, in which such lunatic or mad person may be found, to cause such person to be apprehended; and kept safely locked up, and chained, if necessary, in some secure place, within such city or township, or within the county in which said city or township shall be situate, as such justices shall, by their warrant, direct and appoint, in case the last legal settlement shall be in a city or township in

1820.

the said county; but in case the last legal settlement of such lunatic or mad person, shall not be in any city or township within the county where such person shall be found, then such person shall be sent to the place of his or her last legal settlement, in the manner directed in and by the laws relating to the poor, and shall be locked up and chained, if necessary, in some secure place, by warrant from two justices of the peace of the county, to which such person shall be sent in manner aforesaid, and the reasonable charges for apprehending, maintaining, keeping, and removing such person, shall be made and levied of the goods and chattels of such person, by warrant of distress, from two justices of the peace of the county, where such goods and chattels may be found; but in case sufficient goods and chattels of such lunatic or mad person cannot be found, the charges aforesaid shall be paid and satisfied by the overseers of the poor of the city or township in which such person shall be legally settled, in the manner in and by the poor laws directed for maintenance and support of the poor: *Provided always*, That this section, or any thing therein contained, shall not extend to, or be construed to restrain or abridge the power or authority of the chancellor, orphans' court or guardian, touching and concerning such lunatic or mad person, nor to prevent any of the friends or relations of such person from taking him or her under their own protection, so long as such friends and relations shall take care of and safe keep him or her.

Proviso.

10. *And be it enacted*, That the act, entitled "An act for supporting idiots and lunatics and preserving their estates," passed the twenty-first day of November, one thousand seven hundred and ninety-four, and the act, entitled "A supplement to the act entitled an act for supporting idiots and lunatics, and preserving their estates," passed the first day of March, one thousand eight hundred and four, and the act, entitled "An act respecting the persons of idiots and lunatics," passed the twelfth day of February, one thousand eight hundred and eighteen, be, and the same are hereby repealed: *Provided nevertheless*, That all rights acquired, and acts legally done under the same, shall be as valid and effectual as though this act had not been passed.

Acts repealed.

AN ACT respecting suits for the recovery of moneys due to the state.

P.A.M. 95.

Passed the 28th of February, 1820.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That all suits and actions hereafter to be brought and instituted in the court of chancery or any court of record in this state, for the recovery of moneys for the use of this state, be brought and instituted in the name of the state of New-Jersey, and not otherwise, any act of the legislature heretofore made to the contrary notwithstanding.

Style of action.

1820.

Duty of certain officers.

2. *And be it enacted*, That it shall be the duty of the treasurer of this state, and of the secretary of this state, in cases appertaining to their respective offices, to commence suits in the name of the state of New-Jersey in the supreme court, for the recovery of all sums of money now due, or which may hereafter become due to this state, and the same to prosecute to final judgment and execution, in the said supreme court, and in case of recovery of any sum of money in favor of the state, to recover costs.

Acts repealed.

3. *And be it enacted*, That the act, entitled "An act for the recovery of moneys due to the state," passed the twenty-first day of November, one thousand seven hundred and ninety-nine, and the supplement thereto, passed the twenty-eighth day of November, one thousand eight hundred and six, be, and the same are hereby repealed.

PAM. 95.

AN ACT to prevent the unlawful waste and destruction of timber, in this state.

Passed the 28th of February, 1820.

Penalty in a civil suit.

Authority of the justice.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if any person or persons whatsoever, shall, at any time hereafter, cut, fell, work up, carry away, box, bore or destroy any tree, sapling or pole, standing or lying on any land within this state, to which such person or persons hath not or have not any right and title, without leave first had and obtained of the owner or owners of the said land for that purpose, every such person or persons so offending, shall forfeit and pay for each tree, sapling or pole so cut, felled, worked up, carried away, boxed, bored or destroyed as aforesaid, the sum of eight dollars; one half to the owner or owners of the land, and the other half to the person or persons who shall sue for and prosecute the same to effect, at any time within eighteen months from the cutting, felling, working up, carrying away, boxing, boring or destroying of any such tree, sapling or pole; and that whenever any person or persons, within this state, shall be sued or prosecuted before any justice of the peace within the same, it shall and may be lawful for such justice of the peace to proceed whenever the penalty demanded shall not exceed one hundred dollars, notwithstanding any claim the defendant or defendants may offer to make to the land whereon and from which the said tree, sapling or pole may be cut, felled, worked up, boxed, bored, destroyed or carried away, and to issue execution for the same, with costs of suit, unless the defendant or defendants shall immediately enter into bond to the plaintiff or plaintiffs, with one or more sufficient sureties or surety, being freeholders, in double the sum so demanded, with a sufficiency for costs of suit, conditioned for his or their appearance at the next court where the same may be cognizable, in an action of trespass, and to pay damages found against him, her or them, with costs of suit, any law, usage or custom to the contrary notwithstanding.

2. *And be it enacted*, That if any person or person : whatsoever, shall, at any time hereafter, unlawfully cut, fell, work up, carry away, box, bore, bark or destroy any tree, sapling, log or pole, standing or lying on any land in this state, to which such person or persons hath not or have not any legal right and title, without leave first had and obtained of the owner or owners of the said land for that purpose, every person so offending shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding one hundred dollars, or imprisonment at hard labor, not exceeding one year, or both, at the discretion of the court before whom such offender or offenders shall be convicted: *Provided*, That this act shall not subject to conviction and punishment any person or persons who have been subjected to a prosecution for a penalty, as provided for in the first section of this act, for the same offence, and shall be discharged therefrom by due course of law, or who shall cut, fell, work up, carry away, box, bore, bark or destroy any tree, sapling, log or pole, standing or lying on any land in his or her actual possession, nor any person or persons who shall cut, fell, work up, carry away, box, bore, bark or destroy any tree, sapling, log or pole, lying and being on land not his, her, or their own, by reason of not knowing the exact boundaries of lands in his, her or their possession, nor any person who shall do the same by mistake or accident, without any intention to injure or defraud the owner thereof.

1820.

Made a misdemeanor, and how punished.

Proviso.

3. *And be it enacted*, That if any person or persons shall saw up any log, or receive or buy any tree, sapling, log, pole, wood or timber, so unlawfully taken and carried away, knowing the same to have been so unlawfully taken and carried away, he, she or they so offending, shall be deemed guilty of a misdemeanor, and, on conviction, be punished by fine not exceeding one hundred dollars, or imprisonment at hard labor not exceeding six months, or both, at the discretion of the court before whom such offender or offenders shall be convicted.

Receiver how punished.

4. *And be it enacted*, That nothing in this act shall be deemed or taken to extend to prohibit the cutting, felling, or carrying away any wood or timber, within the bounds or limits of the highways within this state, for making and repairing of bridges and highways.

5. *And be it enacted*, That no person or persons shall be exempt or protected from conviction and punishment for any offence or offences committed against the prohibitions in this act, by reason of being possessed of or entitled to a share or shares of propriety under the pretence of being a tenant or tenants in common of the unlocated lands in this state, belonging to the general proprietors: *Provided nevertheless*, That it shall and may be lawful for any duly authorized agent or agents of the general proprietors to take, seize and carry away all such wood or timber, as he or they may find cut or felled, on any of the said unlocated lands, and to dispose of the same for the use of the said general proprietors.

Tenants in common of unlocated lands.

Proviso.

6. *And be it enacted*, That all offences against this act shall

1820.

case such clerk shall die during his continuance in said office, it shall be the duty of his executors or administrators to deliver over, in like manner, to the successor in said office, all the books, papers, records, writings and every document appertaining to said office, and transmit, in like manner, the certificate of the judge, and the receipt of the successor to the secretary of state, to be by him filed in his office.

Clerks not to
be surrogates.

6. *And be it enacted*, That no person shall hereafter hold the office of clerk of the inferior court of common pleas, in any of the counties of this state, and the office of surrogate, at the same time; and in case any clerk of the inferior court of common pleas, in any of the counties of this state, shall hereafter be appointed to, or hold the office of surrogate, the said appointment and office of surrogate shall be deemed to be, and is hereby declared void.

Clerk not to
practice as at-
torney at law
in the county
of which he is
clerk.

7. *And be it enacted*, That the clerks of the courts of common pleas and general quarter-sessions of the peace, hereafter to be appointed, shall not be allowed to practice or act as attorneys at law, in any of the counties of this state, in which they may be so appointed; and if any clerk shall practice or act contrary to the prohibition aforesaid, for each offence he shall be liable to the penalty of fifty dollars, to be recovered in an action of debt, by any person who shall prosecute for the same, in any court where the same be cognizable, with costs of suit, and shall also be liable to be removed from office by impeachment.

Acts repealed.

8. *And be it enacted*, That the fifteenth section of the act, entitled "An act respecting conveyances," passed the seventh day of June, one thousand seven hundred and ninety-nine; and "An act to prohibit clerks of the courts of common pleas and general quarter-sessions of the peace, from practising as attorneys at law in the counties of which they are clerks," passed the first day of March, one thousand eight hundred and four; and an act, entitled "An act respecting the clerks of the courts of common pleas and general quarter-sessions, also to provide for recording the warrants of attorney, pleadings, proceedings and judgments, in the county of Hunterdon," passed the tenth day of March, one thousand eight hundred and six; and the supplement thereto, passed the twenty-seventh day of November, one thousand eight hundred and six; and the act, entitled "An act to ensure the faithful and impartial execution of office," passed the fourth day of February, one thousand eight hundred and thirteen, be, and the same are hereby repealed: *Provided*, That all acts done, and bonds taken and recorded under them or any of them, shall be as valid and available in law, as though this act had not been passed.

PAM. 112.

AN ACT concerning wrecks.

Passed the 3d of March, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for the courts of common pleas,

LAWS OF NEW-JERSEY.

in the several counties of this state, bordering on the sea, bays and sounds, and they are hereby required, each and every year hereafter, and oftener if necessary, to appoint one or more discreet and fit person or persons, not a judge of the court so making the said appointment, commissioner or commissioners of wrecks, in their respective counties, who shall hold such appointment not less than one year, nor more than five years; at the discretion of said courts, and shall severally enter into bond to the state of New-Jersey, with two or more good and sufficient sureties, to be approved of by said court, in any sum not less than five thousand dollars, nor more than twenty thousand dollars, for the faithful discharge of the duties of their said office: which bond shall be deposited in the office of the secretary of this state; and it shall be the duty of the clerks of said courts respectively, to make out a certificate, under the seal of said court, for each of the persons so appointed, of his appointment, and deliver the same to him: *Provided*, That when any commissioner is appointed as aforesaid, for more than one year, and not exceeding five years, it shall not be necessary to renew his appointment or bond, until the time therein expressed shall have expired.

1820.

Appointment
of commis-
sioners.

Proviso.

2. *And be it enacted*, That the said courts of common pleas shall have authority, from time to time, to lay off and alter, at the discretion of the said courts, two or more districts on the sea, bays, sounds and rivers, adjoining their respective counties, and in such cases, to appoint a commissioner in each and every district, who shall have the sole authority of commissioner of wrecks, in the district to which he shall be appointed, and give bond to the state as aforesaid.

3. *And be it enacted*, That it shall be the duty of the commissioners appointed as aforesaid, on application to them made, by or in behalf of any owner, supercargo, master, or other person, having charge of any ship, or other vessel, or cargo, being stranded, or in danger of being stranded, or in distress, on or near the shores of their respective counties or districts, to call to his assistance and employ, as many men as shall be agreed on between the said commissioner and the said owner, supercargo, master, or other person having charge of said vessel or cargo, to be useful and necessary to assist in preserving the said vessel or cargo, which men so employed, shall be under the direction of the master, owner, supercargo, consignee, insurer or agent, having the lawful care of said vessel and cargo, and the said commissioner, and all others, who shall, at the request, or with the approbation of the master, owner, supercargo, consignee, insurer or agent, having the lawful care and charge of any vessel, stranded or in distress, assist in preserving such vessel or cargo, shall be paid a reasonable compensation for their labor and trouble, in and about the same; and in default thereof, the ship, vessel and goods shall remain in custody of the commissioner, until all reasonable charges shall be paid, or security given for that purpose, to the satisfaction of the parties: and in case the parties shall disagree, touching the amount of the compensation to be paid to the commissioner, or other persons employed in saving such vessel or

Duty of com-
missioners.

Their compen-
sation and
manner of set-
tling the same.

1820.

case such clerk shall die during his continuance in said office, shall be the duty of his executors or administrators to deliver over, in like manner, to the successor in said office, all the books, papers, records, writings and every document appertaining to said office, and transmit, in like manner, the certificate of the judge, and the receipt of the successor to the secretary of state, to be by him filed in his office.

Clerks not to
be surrogates.

6. *And be it enacted*, That no person shall hereafter hold the office of clerk of the inferior court of common pleas, in any of the counties of this state, and the office of surrogate, at the same time; and in case any clerk of the inferior court of common pleas, in any of the counties of this state, shall hereafter be appointed to, or hold the office of surrogate, the said appointment and office of surrogate shall be deemed to be, and is hereby declared void.

Clerk not to
practice as at-
torney at law
in the county
of which he is
clerk.

7. *And be it enacted*, That the clerks of the courts of common pleas and general quarter-sessions of the peace, hereafter to be appointed, shall not be allowed to practice or act as attorneys at law, in any of the counties of this state, in which they may be so appointed; and if any clerk shall practice or act contrary to the prohibition aforesaid, for each offence he shall be liable to the penalty of fifty dollars, to be recovered in an action of debt, by any person who shall prosecute for the same, in any court where the same be cognizable, with costs of suit, and shall also be liable to be removed from office by impeachment.

Acts repealed.

8. *And be it enacted*, That the fifteenth section of the act, entitled "An act respecting conveyances," passed the seventh day of June, one thousand seven hundred and ninety-nine; and "An act to prohibit clerks of the courts of common pleas and general quarter-sessions of the peace, from practising as attorneys at law in the counties of which they are clerks," passed the first day of March, one thousand eight hundred and four; and an act, entitled "An act respecting the clerks of the courts of common pleas and general quarter-sessions, also to provide for recording the warrants of attorney, pleadings, proceedings and judgments, in the county of Hunterdon," passed the tenth day of March, one thousand eight hundred and six; and the supplement thereto, passed the twenty-seventh day of November, one thousand eight hundred and six; and the act, entitled "An act to ensure the faithful and impartial execution of office," passed the fourth day of February, one thousand eight hundred and thirteen, be, and the same are hereby repealed: *Provided*, That all acts done, and bonds taken and recorded under them or any of them, shall be as valid and available in law, as though this act had not been passed.

PAM. 113.

AN ACT concerning wrecks.

Passed the 3d of March, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for the courts of common pleas,

LAWS OF NEW-JERSEY.

in the several counties of this state, bordering on the sea, bays and sounds, and they are hereby required, each and every year hereafter, and oftener if necessary, to appoint one or more discreet and fit person or persons, not a judge of the court so making the said appointment, commissioner or commissioners of wrecks, in their respective counties, who shall hold such appointment not less than one year, nor more than five years; at the discretion of said courts, and shall severally enter into bond to the state of New-Jersey, with two or more good and sufficient sureties, to be approved of by said court, in any sum not less than five thousand dollars, nor more than twenty thousand dollars, for the faithful discharge of the duties of their said office: which bond shall be deposited in the office of the secretary of this state; and it shall be the duty of the clerks of said courts respectively, to make out a certificate, under the seal of said court, for each of the persons so appointed, of his appointment, and deliver the same to him: *Provided*, That when any commissioner is appointed as aforesaid, for more than one year, and not exceeding five years, it shall not be necessary to renew his appointment or bond, until the time therein expressed shall have expired.

1820.

Appointment
of commis-
sioners.

Proviso.

2. *And be it enacted*, That the said courts of common pleas shall have authority, from time to time, to lay off and alter, at the discretion of the said courts, two or more districts on the sea, bays, sounds and rivers, adjoining their respective counties, and in such cases, to appoint a commissioner in each and every district, who shall have the sole authority of commissioner of wrecks, in the district to which he shall be appointed, and give bond to the state as aforesaid.

3. *And be it enacted*, That it shall be the duty of the commissioners appointed as aforesaid, on application to them made, by or in behalf of any owner, supercargo, master, or other person, having charge of any ship, or other vessel, or cargo, being stranded, or in danger of being stranded, or in distress, on or near the shores of their respective counties or districts, to call to his assistance and employ, as many men as shall be agreed on between the said commissioner and the said owner, supercargo, master, or other person having charge of said vessel or cargo, to be useful and necessary to assist in preserving the said vessel or cargo, which men so employed, shall be under the direction of the master, owner, supercargo, consignee, insurer or agent, having the lawful care of said vessel and cargo, and the said commissioner, and all others, who shall, at the request, or with the approbation of the master, owner, supercargo, consignee, insurer or agent, having the lawful care and charge of any vessel, stranded or in distress, assist in preserving such vessel or cargo, shall be paid a reasonable compensation for their labor and trouble, in and about the same; and in default thereof, the ship, vessel and goods shall remain in custody of the commissioner, until all reasonable charges shall be paid, or security given for that purpose, to the satisfaction of the parties: and in case the parties shall disagree, touching the amount of the compensation to be paid to the commissioner, or other persons employed in saving such vessel or

Duty of com-
missioners.

Their compen-
sation and
manner of set-
tling the same.

1820.

cargo, it shall be lawful for the master, owner, supercargo, or other person having the lawful care and charge of such vessel or cargo, to choose one indifferent person, being a freeholder, and also for the commissioner to choose one other indifferent person, being a freeholder, who shall adjust and ascertain the same, and in case they cannot agree, the two freeholders so chosen, shall appoint one other indifferent person, being a freeholder, to assist them in said adjustment; and the decision of any two of them shall be binding on all parties, unless the said commissioner, or the said master, owner, supercargo, or other person, having the lawful care or charge of, or interest in said vessel or cargo, shall, in fifteen days, appeal to the court of common pleas of the county where such vessel or cargo shall be saved, which court shall, at the next term, in a summary way, hear and determine said appeal, and render judgment accordingly.

Proceedings in
case of an ap-
peal.

4. *And be it enacted*, That in case of an appeal, as provided by the next preceding section of this act, it shall be lawful for the master, owner, or supercargo, or other person or persons, legally entitled to the care and charge of the said vessel or cargo, to pay to the commissioner the sum awarded by said freeholders, whereupon the said commissioner shall restore the vessel or cargo to the said master, owner, supercargo, or other person, having the lawful care or charge of the said vessel or cargo; but this payment shall not prejudice the right or interest of the owner of the vessel or cargo on said appeal: and further, in case the sum for such compensation shall be lessened by the judgment of the said court of common pleas, the commissioners shall restore to the owner, or person or persons having the legal interest in said vessel or cargo, the difference between the award of the said freeholders and the judgment of the common pleas; and in case the judgment of the common pleas shall increase the said compensation, then the owners of the vessel or cargo, shall be answerable for such increase, and judgment shall be rendered by the said court of common pleas, against him, her or them, for the same, and execution accordingly.

5. *And be it enacted*, That the commissioners aforesaid, shall not take upon themselves any power or authority to sell, or any way dispose of the ship, vessel or cargo, or any part thereof, where there is any owner, supercargo, consignee, insurer, agent or master present, but in all things to aid and assist him or them as he or they may direct; and for such services, such commissioner or commissioners shall receive a reasonable compensation.

Inventory to
be made by
the commis-
sioner.

6. *And be it enacted*, That every commissioner who shall aid and assist in saving any goods, or other property, shall, before the goods or other property is removed, make a true and perfect inventory of all the goods or other property that may be removed under his direction, which inventory shall describe the marks and numbers upon the respective packages or casks, the kind of goods or liquors that they contain, when that can be ascertained without unnecessarily breaking the packages, or injury to the goods, and the quantity as near as practicable, and shall sign his name thereto, which inventory he shall carefully transcribe into

a book by him to be kept for that purpose; which book shall be subject to be inspected by the owner, supercargo, consignee, insurer or master, or other person or persons interested in said goods or property, and also be laid before the court of common pleas, by whom said commissioners shall be appointed, at the expiration of the said commission, and at such other time or times as the said court shall order or direct, for the inspection of said court.

1820.

7. *And be it enacted*, That if any person other than those employed by a commissioner, shall enter, or endeavor to enter, on board of any ship or other vessel, stranded or in distress, on or near the sea shores of this state, or the bays or inlets thereof, without the leave of the master, owner, or other person having the care or charge of said vessel, or a lawful right thereto, or if any person shall molest the master, owner, or other person having the lawful care and custody of such vessel, in saving the same, or the cargo, or any part thereof, or shall wilfully deface the marks of goods, being part of the cargo of such vessel, before they shall be inventoried by the commissioner as aforesaid, or some other person concerned in the care and preservation of such goods, such person shall forfeit and pay for every such offence the sum of one hundred dollars, to be recovered with costs, by action of debt, in any court having cognizance thereof, in the name of, and to the use and benefit of the owner of the ship, vessel, or goods, as the case may be; and in case of failure to pay such forfeiture immediately, or to give security to the satisfaction of the court before whom the conviction shall be had, to pay the same in twenty days, the said court shall immediately sentence the person so convicted, to imprisonment in the county gaol, for any time not exceeding six calendar months; and further, in case any goods shall be found upon or in possession of any person, that shall have been stolen, or unlawfully carried off from any ship or other vessel in distress, or stranded as aforesaid, the person upon whom, or in whose possession such goods shall be found, shall, on demand, deliver the same to the owner, supercargo, master or commissioner, or to such other person as shall be authorized by the owner, supercargo, master or commissioner, to receive the same, and shall be also liable to pay to the owner double the value of the said goods so found upon him or her, or in his or her possession, with costs, to be sued for and recovered in any court having cognizance thereof.

Who shall not enter on board of vessels in distress.

Penalty for injury done.

Goods stolen or unlawfully carried away to be delivered up.

8. *And be it enacted*, That should any vessel or other property, be cast on shore within the limits of any of the counties of this state, bordering on the sea, bays, sounds, rivers, creeks or inlets, and no person present to claim the same as owner, supercargo, consignee, insurer, agent or master, the commissioner of this district, and in case of his death or absence, a commissioner of any district of said county, shall take possession thereof, and cause an inventory to be made, and recorded in manner prescribed by the sixth section of this act, after which it shall be the duty of said commissioner or commissioners, to cause a true description of said goods, with the marks, numbers and kinds, as far

Vessels cast on shore and no owner present, duty of commissioner.

1620. as can be ascertained, and a description of the vessel in which said goods shall be found, as fully as can be conveniently done, to be advertised in one or more of the public newspapers of this state, for the space of four weeks; and in case the value of said goods shall exceed the sum of five hundred dollars, then to advertise the same in one of the public newspapers in each of the cities of New-York and Philadelphia, for the same length of time, and in case no person shall claim the same within one year from the time the same shall have been advertised, as aforesaid, the said commissioner or commissioners shall advertise the same for sale in two or more public places in the county where the said goods were stranded or found, not less than ten nor more than twenty days, and proceed to sell the same at public vendue or outcry, for the best price that can be obtained for the same, and after deducting all reasonable charges and expenses, to be ascertained and allowed by one of the judges of the court of common pleas of said county, and the compensation for his own labor and trouble, as hereinafter provided, the residue of the money arising on such sales, together with an account of sales, be transmitted by the commissioner or commissioners, to the treasurer of this state, and the said treasurer shall file the account of sales in his office, and keep an account of the money so received, for the benefit of the owner, in case he shall claim the same, which may be done by proving his property to the satisfaction of the commissioner or commissioners, who shall have sold the same, together with two of the justices of the peace of the county, who are hereby authorized to investigate the case, and to hear proof thereof; and in case they shall be satisfied in whom the property is, they shall certify the same under their hands and seals, to the treasurer of the state, who shall file the same in his office, and pay the money to whom it shall be so certified to be due, deducting therefrom one per cent. for his trouble; and in case no person shall claim the same within two years from the date of the advertisement of the said goods, the same shall be for the use of the state; but in case the goods shall be perishable, they may be sold at any time, after being advertised in two or more public places in the county, not less than five days.

Stranded
goods found,
duty of the
finder.

9. *And be it enacted*, That when any person or persons shall find any stranded goods or other property, on or near the sea or bay, shores, or in any inlet, river, creek or sound in this state, above the value of twenty dollars, and no owner appearing to claim the same, he, she or they shall forthwith give information thereof to the nearest commissioner of the county; or in case the county shall be divided into districts, then to the commissioner of the district in which such goods or property shall be found, for which he, she or they shall be allowed all reasonable charges or expenses, to be ascertained by said commissioner, and paid out of the product of the sales of such goods or other property: and further, should any person, finding stranded goods or other property, conceal the same, or convert them to his or her own use, or fail, within four days, to give information to the commissioner, as before directed, he or she shall pay to the said com-

1820.

missioner, double the value of such goods or other property, to be recovered, with costs, by the said commissioner, in an action of debt, in his own name, in any court having cognizance thereof, for the use of the state, out of which said commissioner is hereby directed to pay to the owner of such stranded goods or other property, all the damage the said owner shall sustain by reason of such concealment, conversion or failing to give information, in case the said owner appear and prove his property in one year from the time such judgment of recovery shall be rendered.

10. *And be it enacted*, That if any person shall steal or embezzle any stranded goods or other property, or conceal the same, knowing them to have been stolen or embezzled, such person shall forfeit and pay to the owner or commissioner, which ever shall first sue for the same, double the value of the goods or other property so stolen or embezzled, or found in his or her possession, he or she knowing the same to have been stolen or embezzled, to be recovered in any court having cognizance thereof, and the person so stealing, embezzling or concealing the same, knowing the same to have been stolen or embezzled, shall moreover be liable to be prosecuted, convicted and punished, on the part of this state, as in other cases of theft, or receiving stolen goods, knowing them to have been stolen.

Stranded goods embezzled.

11. *And be it enacted*, That in case any commissioner, appointed as aforesaid, either by fraud, connivance or wilful neglect, shall abuse the trust reposed in him by this act, he shall, on conviction thereof, forfeit and pay double damages to the party aggrieved by such fraud, connivance or wilful neglect, to be recovered, with costs, by action on the case, in any court having cognizance thereof, and shall thereafter be rendered incapable of acting or being again appointed a commissioner under this act: and further, in case any person, as aforesaid, shall refuse or neglect to give the assistance required by this act for the saving any vessel or cargo, he shall forfeit and pay the sum of five dollars, to be recovered, with costs, by any commissioner of the county, or in case the county where the offence shall be committed shall be divided into districts, then by the commissioner of the district in which the offence shall be committed, in an action of debt, before any justice of the peace of the county where such offence shall be committed, to and for the use of the state.

What shall be forfeited by commissioner for abuse of his trust.

Neglect or refusal to assist.

12. *And be it enacted*, That every commissioner appointed under this act, shall, before he enters on the duties of his office, take and subscribe the following oath or affirmation:

Oath or affirmation to be taken by commissioner.

I, A. B., do solemnly swear (or affirm,) that I will truly and faithfully perform and discharge the duties of a commissioner of wrecks for the district in which I am appointed, in the county of _____ agreeably to law, to the best of my skill and abilities. So help me God.

And further, in case of stranded or wrecked property coming into the bounds of any commissioner, where no owner shall appear to claim the same, the said commissioner shall receive a

Allowance to commissioner where no owner appears.

1820.

reasonable compensation for his trouble, to be ascertained and allowed by the court of common pleas by whom the said commissioner hath been or shall be appointed, which compensation, so ascertained and allowed, shall be retained by the said commissioner out of the product of the sale of said goods, before the same shall be paid to the treasurer, as aforesaid.

Punishment
for putting up
false lights,
&c.

13. *And be it enacted*, That if any person shall put up false lights, in order to bring any vessel into danger, or wilfully do any act or thing tending to the immediate loss of such vessel, whereby such vessel shall be lost or destroyed, then every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof by due course of law, be punished by fine not exceeding one thousand dollars, or by imprisonment in solitary confinement not exceeding three years, or both, at the discretion of the court before whom such conviction shall be had.

Who not eligi-
ble to ascer-
tain compen-
sation.

14. *And be it enacted*, That no person who shall be related within the third degree, according to the rules of the common law, to any person or persons claiming compensation for saving or assisting to save any vessel or cargo, or any part thereof, as before provided by this act, or any person having himself received compensation for saving any vessel or cargo, within three years next preceding, shall be considered as indifferent between the parties, or eligible to adjust and ascertain the compensation for saving or assisting to save any vessel or cargo, as herein before provided.

Unclaimed
money, how
invested and
to what use.

15. *And be it enacted*, That all moneys now in the treasury of this state, or which shall hereafter come into the said treasury, arising from the proceeds of wrecked or stranded goods, or other property, shall, on the expiration of the time allowed by this act to the owner to claim the same, and the same being unclaimed, be, as soon as can conveniently be done, invested in six per cent. stock of the United States, and the interest arising on the moneys so invested shall enure and be received by the treasurer, for the benefit of the fund for the support of free schools, and be credited and accounted for accordingly.

16. *And be it enacted*, That this act shall not be construed to contravene any treaty of the United States made with any foreign nation.

Acts repealed

17. *And be it enacted*, That the act, entitled "An act concerning wrecks," passed the thirty-first day of May, seventeen hundred and ninety-nine; and the act, entitled "An act concerning wrecks," passed the eighth day of March, eighteen hundred and six; and the act, entitled "An act to amend an act, entitled an act concerning wrecks," passed the twenty-eighth day of November, eighteen hundred and six; and the act, entitled "A supplement to the act, entitled an act concerning wrecks," passed March eighth, eighteen hundred and six; which supplemental act was passed the twenty-eighth day of February, eighteen hundred and eleven; and the act, entitled "A supplement to an act concerning wrecks," passed March, eighteen hundred and six, which supplemental act was passed the seventeenth day of Fe-

bruary, eighteen hundred and nineteen; and the act, entitled "An act for the appropriation of moneys which may be paid into the treasury from the proceeds of unclaimed wrecks," passed the eighteenth day of February, eighteen hundred and nineteen, be, and the same are hereby repealed: *Provided nevertheless*, That nothing in this repealing section shall be deemed, taken or construed to invalidate or render ineffectual any act or thing lawfully done or transacted under them or either of them, nor to exonerate any person or persons from any crime or crimes, or offence or offences, done or committed against them, or any of them, but that the same may be prosecuted to conviction and punishment, the same as though this repealing section had not been made or enacted.

1820.

A SUPPLEMENT to the act, entitled "An act incorporating the inhabitants of townships, designating their powers, and regulating their meetings." PAM. 123.
See ante 332.

Passed the 22d of May, 1820.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the inhabitants of each and every township, erected or established in any of the counties of this state, since the twenty-first day of February, in the year of our Lord, one thousand seven hundred and ninety-eight, be, and they hereby are constituted a body politic and corporate in law, by the following names, that is to say:

Constituted a
body politic.

That the inhabitants of the township of Chester, in the county of Morris, shall be styled and known by the name of "The inhabitants of the township of Chester, in the county of Morris."

Chester.

That the inhabitants of the township of Howell, in the county of Monmouth, shall be styled and known by the name of "The inhabitants of the township of Howell, in the county of Monmouth."

Howell.

That the inhabitants of the township of Millville, in the county of Cumberland, shall be styled and known by the name of "The inhabitants of the township of Millville, in the county of Cumberland."

Millville.

That the inhabitants of the township of Washington, in the county of Burlington, shall be styled and known by the name of "The inhabitants of the township of Washington, in the county of Burlington."

Washington.

That the inhabitants of the township of Rahway, in the county of Essex, shall be styled and known by the name of "The inhabitants of the township of Rahway, in the county of Essex."

Rahway.

That the inhabitants of the township of Randolph, in the county of Morris, shall be styled and known by the name of "The inhabitants of the township of Randolph, in the county of Morris."

Randolph.

1820.
Chatham. That the inhabitants of the township of Chatham, in the county of Morris, shall be styled and known by the name of "The inhabitants of the township of Chatham, in the county of Morris."
- Warren. That the inhabitants of the township of Warren, in the county of Somerset, shall be styled and known by the name of "The inhabitants of the township of Warren, in the county of Somerset."
- Jefferson. That the inhabitants of the township of Jefferson, in the county of Morris, shall be styled and known by the name of "The inhabitants of the township of Jefferson, in the county of Morris."
- Orange. That the inhabitants of the township of Orange, in the county of Essex, shall be styled and known by the name of "The inhabitants of the township of Orange, in the county of Essex."
- Union. That the inhabitants of the township of Union, in the county of Essex, shall be styled and known by the name of "The inhabitants of the township of Union, in the county of Essex."
- New-Providence. That the inhabitants of the township of New-Providence, in the county of Essex, shall be styled and known by the name of "The inhabitants of the township of New-Providence, in the county of Essex."
- Livingston. That the inhabitants of the township of Livingston, in the county of Essex, shall be styled and known by the name of "The inhabitants of the township of Livingston, in the county of Essex."
- Hamilton. That the inhabitants of the township of Hamilton, in the county of Gloucester, shall be styled and known by the name of "The inhabitants of the township of Hamilton, in the county of Gloucester."
- Franklin. That the inhabitants of the township of Franklin, in the county of Gloucester, shall be styled and known by the name of "The inhabitants of the township of Franklin, in the county of Gloucester."
- Lawrence. That the inhabitants of the township of Lawrence, in the county of Hunterdon, formerly the township of Maidenhead, in said county, shall be styled and known by the name of "The inhabitants of the township of Lawrence, in the county of Hunterdon."
- Powers vested 2. *And be it enacted*, That the inhabitants of the respective townships aforesaid, shall be, and they are hereby vested with, and entited unto, all the powers, privileges, immunities and authorities, and shall be, and they are hereby made subject to the like regulations and government, which the inhabitants of the other townships in this state, incorporated by the act to which this is a supplement, are or shall by law be subject and entited unto.
- Township collector to enter into bond. 3. *And be it enacted*, That when any person shall hereafter be elected to the office of collector in any township within this state, he shall, before he enters upon the duties of said office, enter into bond to the inhabitants of said township, in their corporate

* The township of Bloomfield. See act, 24th January, 1812, ante 553.

1820.

name, with one or more sufficient surety or sureties, being a freeholder or freeholders, and resident in said township, to be approved of by the township committee of said township, and in such sum as the said township committee shall direct, conditioned for the faithful performance of all the duties of said office of collector of said township, according to law.

4. *And be it enacted*, That if any person chosen at any town-meeting, by virtue of the act to which this a supplement, shall serve in any town office for one year, or pay a fine or forfeiture that the law inflicts for refusing to accept or serve in such office, such person shall not be compelled to serve in the said office, nor to pay any fine or forfeiture for refusing to accept or serve in the said office, for the space of five years thereafter.

What shall exempt from serving in township offices for five years.

5. *And be it enacted*, That the annual town-meetings of the townships of Montague, Sandiston and Walpack, in the county of Sussex, shall hereafter be held on the second Monday in March, annually.

Time of meetings of certain townships in Sussex.

6. *And be it enacted*, That whenever the inhabitants of any of the townships in this state, at their annual town-meeting, held on the day appointed by law for holding the same, shall deem it expedient to change the hour of opening the said meeting, it shall and may be lawful for them so to do, and to proceed to choose the presiding officer; which time so agreed on, shall be the time of meeting, until it be by the said inhabitants changed to some other hour: *Provided*, That the hour fixed on shall not be earlier than ten o'clock in the forenoon, nor later than two o'clock in the afternoon of said day.

The hour of opening the meeting may be changed.

7. *And be it enacted*, That from and after the passing of this act, it shall and may be lawful for the inhabitants in the several townships in the county of Cape-May, at their annual township meetings, to elect three surveyors of the highway, for each and every township in said county.

Cape-May—surveyors of the highway.

8. *And be it enacted*, That the following words in the eleventh section of the act to which this is a supplement, to wit: "and for other necessary charges and legal objects and purposes thereof," shall be confined in their legal operation and construction to such necessary charges and legal objects and purposes, as are by law expressly vested in the inhabitants of the several townships of this state, by the act to which this is a supplement, or by some other act of the legislature of this state.

Explanatory of certain words.

9. *And be it enacted*, That hereafter it shall be lawful for the inhabitants in each of the townships of this state, duly qualified to vote at town-meeting, at their annual meetings, to vote, grant, and raise in the same manner, other moneys, for town purposes, as are authorized to be raised, such sum of money as the majority of said meeting shall agree upon, to be laid out and expended under the direction of the town committee in each township, for the education of such poor children as are paupers, belonging to said township, and the children of such poor parents resident in said township, as are or shall be, in the judgment of said committee, unable to pay for schooling the same.

Money may be raised for educating poor children.

1820.

Acts repealed.

10. *And be it enacted*, That the act, entitled "An act respecting collectors of townships," passed the twenty-sixth day of January, one thousand eight hundred and sixteen and ; the act, entitled "An act to change the corporate name of the township of Maidenhead, in the county of Hunterdon," passed the twenty-fourth day of the same month of January ; and so much of the act to which this is a supplement, as directs the style and name of "The township of Maidenhead, in the county of Hunterdon ;" and the act entitled a supplement to the act, entitled "An act incorporating the inhabitants of townships, designating their powers and regulating their meetings," passed the twenty-first day of February, one thousand seven hundred and ninety-eight, which supplemental act was passed the fifteenth day of November, one thousand seven hundred and ninety-nine ; and the act, entitled "An act to alter the time of holding the annual town-meetings in the township of Montague, Sandiston and Walpack, in the county of Sussex," passed the eleventh day of November, one thousand eight hundred and five ; and the act entitled a supplement to the act, entitled "An act incorporating the inhabitants of townships, designating their powers, and regulating their meetings," passed the twenty-first day of February, Anno Domini, one thousand seven hundred and ninety-eight, which supplemental act was passed the twenty-fourth day of January, one thousand eight hundred and seventeen ; and the act, entitled "A supplement to the act entitled an act incorporating the inhabitants of townships, designating their powers, and regulating their meetings," passed the twenty-first day of February, Anno Domini, one thousand seven hundred and ninety-eight, which supplemental act was passed the seventh day of February, one thousand eight hundred and sixteen, be, and they are hereby repealed: *Provided*, That nothing in this repealing section shall impair or render invalid, any act or thing legally done or transacted under the said acts hereby repealed.

PAM. 126.

AN ACT relative to statutes.

Passed the 26th of May, 1820.

When to be in force.

Statutes of Great-Britain to have no authority in this state.

Acts repealed.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every statute or act of the legislature of this state, which hath been or shall be made, shall commence and be in force and operation from the day of passing thereof, unless another day for its commencement and operation hath been or shall be directed therein.

2. *And be it enacted*, That no statute or act of parliament of England or Great-Britain, shall have force or authority within this state, or be considered as law thereof.

3. *And be it enacted*, That the act, entitled "An act relative to statutes," passed the thirteenth day of June, one thousand seven hundred and ninety-nine ; and the supplement thereto, pass-

ed the twentieth of November, one thousand eight hundred; and the act, entitled "An act relative to foreign reports," passed the first of December, one thousand eight hundred and one; and all acts and supplements to acts coming within the purview of this act; and the act, entitled "An act to alter the appropriation of fees on passing the private laws," passed the twentieth day of February, one thousand seven hundred and ninety-four, be, and the same are hereby repealed.

1820.

AN ACT for securing the laws, and relative to the office of the prerogative court.

PAM. 127.

Passed the 27th of May, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the secretary of council and clerk of the assembly, shall forthwith, on the passage of any bill into a law, deliver the same to the secretary of state for the time being, to be filed in his office, in such order that the laws of each and every sitting of the legislature, shall be kept in separate bundles, and the year in which the same shall be passed shall be endorsed on each bundle, and not delivered to any person or persons whatsoever, but safely kept by the said secretary in his office, and not suffered to be taken or removed therefrom, on any pretence whatsoever; but the secretary of state for the time being, shall give copies to such person or persons as shall make application for the same, which copies, when certified by said secretary, under his hand and seal, to be a true copy, shall be received in evidence in any court of this state, and be as good, effectual and available in law as if the original was then and there produced and proved, for which service the secretary of state shall be entitled to receive, from the person making application for the same, six cents per sheet, for each and every copy furnished, and for the filing each law, ten cents, to be paid by the treasurer of the state.

Where to be kept and in what manner.

Copies to be evidence.

2. *And be it enacted,* That the secretary of state shall cause a true copy of each and every law, so delivered to him, to be made, and within four weeks from the end of every sitting of the legislature, deliver the same to the person appointed to print the laws of the state; and it shall be the duty of the secretary of state to assist the printer who may be appointed as aforesaid, in comparing the proof sheets with the original laws, for which purpose the said printer is required to attend at the office of the secretary of state, with the proof sheets of all such laws as he may be appointed to print; and it shall also be the duty of the secretary to make marginal notes to said laws; and that the said secretary shall be entitled to receive, for copying said laws, assisting in comparing the proof sheets and making marginal notes, for each folio of said laws so copied, compared, and notes made, counting one hundred words to a folio, the sum of eight cents, on a certificate signed by the governor or person administering the

Duty of the secretary of state as to the laws.

Compensation.

1820.

government, stating that the service has been performed, and the sum due for the same.

Duty of the register of the prerogative court.

3. *And be it enacted*, That it shall be the duty of the register of the prerogative court, to record the names of the testators of all wills which he may receive, in alphabetical order, and the year in which such wills were proved, in a book to be by him provided for that purpose, and to file the said wills in his office, the wills of each year and county to be put by themselves, and marked with the year and county, and in like manner to record the names of all intestates, inventories of whose estates he may receive, and to file the said inventories in manner aforesaid.

Fees for certain services.

4. *And be it enacted*, That the secretary of state shall be entitled to receive, for the services hereinafter mentioned, the following fees: For filing every bond or other instrument of writing for incorporated bodies, or for persons in their private capacities, twelve cents, to be paid by the person requiring the same to be filed; filing every bond or instrument of writing of a public nature, twelve cents; and for recording deeds and other instruments of writing belonging to the state, and for copies of laws, instruments of writing, or records, when applied for by the governor, attorney-general or treasurer, for public purposes, the same fees as are directed by law to be paid by private persons, to be paid by the treasurer upon a certificate signed by the governor.

Acts repealed.

5. *And be it enacted*, That the act, entitled "An act for securing the laws, and relative to the office of the prerogative court," passed the twenty-fifth day of November, one thousand eight hundred and eight; and the supplement thereto, passed the seventeenth day of February, one thousand eight hundred and thirteen; and the act, entitled "An act relative to the fees of the secretary of state and register of the prerogative court," passed the sixth day of February, one thousand eight hundred and seventeen, be, and the same are hereby repealed: *Provided*, That nothing herein contained is intended to invalidate any act or thing lawfully done, or right acquired under them or any of them.

P.A.M. 129.

AN ACT establishing an independent battalion within the bounds of the city of Trenton.

Passed the 20th of May, 1820.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the uniform and other companies of militia, at present formed, or which may hereafter be formed, a majority of the members of which shall reside within the bounds of the city of Trenton, shall be, and they are hereby set off and formed into an independent battalion, to be attached to the Hunterdon brigade, and shall meet for exercise by companies, upon the day appointed by the militia law for company trainings; by battalion, upon the second Monday in May, and by battalion for exercise and inspection, upon the Friday immediately following the first Monday in June,

or such other day as the commandant of the brigade shall order, and shall further be entitled to all the privileges, and subjected to all the penalties an independent battalion may, by the militia law of this state, be subjected to.

1820.

A SUPPLEMENT to an act, entitled "An act making provision for carrying into effect the act for the punishment of crimes," passed February fifteenth, one thousand seven hundred and ninety-eight.

PAM. 129.
See ante 325.

Passed the 30th of May, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the inspectors of the state-prison shall, from and after the passing of this act, be entitled to receive the sum of one dollar and fifty cents per day, for every day necessarily employed in the duties of their appointment, out of any moneys in the funds of said prison.

Inspectors' compensation.

2. *And be it enacted,* That it shall be the duty of the inspectors of the state-prison, to detain any offender imprisoned in said prison, by sentence of any court, in confinement, after the expiration of the term of his or her sentence, until he or she shall have discharged the costs of prosecution, together with whatever sum shall be due from such offender, to the said prison, unless the costs and sums due shall be remitted, according to the provisions of this or some other act of the legislature of this state; and further, that the governor, or person administering the government, shall have power to remit any costs of prosecution or debt that shall or may be due from any criminal, imprisoned in the state-prison, on a recommendation from the inspectors of the said prison, certifying that in their opinion, the said criminal has no property, and from bodily inability or other cause, is unable to earn, and in their opinion will continue to be unable to earn more than is sufficient to defray the expense of his or her clothing and provisions.

Duty of inspectors as to detaining offenders after sentence of confinement has expired.

In what manner costs and debt of such offenders may be remitted.

3. *And be it enacted,* That when any verdict shall be rendered against any offender or offenders, in any of the courts of this state, on any indictment, it shall be the duty of the sheriff of the county where the verdict shall be rendered, to pay the jury, who have passed on the trial of the cause, their legal fees, before their separation, and also to pay the witnesses, who shall have been sworn or affirmed, to testify in behalf of the state, their legal fees before they leave the court; and in case the offender or offenders, against whom such verdict shall be rendered, shall be sentenced to imprisonment for such a length of time, as by law requires him, her or them to be sent to the state-prison, it shall be the duty of the inspectors of the state-prison, or any two of them, to certify to the treasurer of this state, the amount of the costs of prosecution, delivered to them, duly taxed, together with the sum due to the sheriff for his mileage and expenses, for sustaining,

Duty of sheriffs as to paying jurors and witnesses fees.

Inspectors to certify to the treasurer amount of costs and expenses to be paid to the sheriff.

1820.

government, stating that the service has been performed, and the sum due for the same.

Duty of the register of the prerogative court.

3. *And be it enacted*, That it shall be the duty of the register of the prerogative court, to record the names of the testators of all wills which he may receive, in alphabetical order, and the year in which such wills were proved, in a book to be by him provided for that purpose, and to file the said wills in his office, the wills of each year and county to be put by themselves, and marked with the year and county, and in like manner to record the names of all intestates, inventories of whose estates he may receive, and to file the said inventories in manner aforesaid.

Fees for certain services.

4. *And be it enacted*, That the secretary of state shall be entitled to receive, for the services hereinafter mentioned, the following fees: For filing every bond or other instrument of writing for incorporated bodies, or for persons in their private capacities, twelve cents, to be paid by the person requiring the same to be filed; filing every bond or instrument of writing of a public nature, twelve cents; and for recording deeds and other instruments of writing belonging to the state, and for copies of laws, instruments of writing, or records, when applied for by the governor, attorney-general or treasurer, for public purposes, the same fees as are directed by law to be paid by private persons, to be paid by the treasurer upon a certificate signed by the governor.

Acts repealed.

5. *And be it enacted*, That the act, entitled "An act for securing the laws, and relative to the office of the prerogative court," passed the twenty-fifth day of November, one thousand eight hundred and eight; and the supplement thereto, passed the seventeenth day of February, one thousand eight hundred and thirteen; and the act, entitled "An act relative to the fees of the secretary of state and register of the prerogative court," passed the sixth day of February, one thousand eight hundred and seventeen, be, and the same are hereby repealed: *Provided*, That nothing herein contained is intended to invalidate any act or thing lawfully done, or right acquired under them or any of them.

P.A.M. 129.

AN ACT establishing an independent battalion with headquarters of the city of Trenton.

Passed the 29

BE IT ENACTED by the Council and General Assembly, and it is hereby enacted by the authority of the same, That the uniform and companies of militia or which may be formed, a majority of which shall reside within the bounds of the city of Trenton, and they are authorized to meet for exercise on the Hunterdon militia law for company meetings; by the Monday in May, a battalion for the following upon the Friday following

a book by him to be kept for that purpose; which book shall be subject to be inspected by the owner, supercargo, consignee, insurer or master, or other person or persons interested in said goods or property, and also be laid before the court of common pleas, by whom said commissioners shall be appointed, at the expiration of the said commission, and at such other time or times as the said court shall order or direct, for the inspection of said court.

1820.

7. *And be it enacted*, That if any person other than those employed by a commissioner, shall enter, or endeavor to enter, on board of any ship or other vessel, stranded or in distress, on or near the sea shores of this state, or the bays or inlets thereof, without the leave of the master, owner, or other person having the care or charge of said vessel, or a lawful right thereto, or if any person shall molest the master, owner, or other person having the lawful care and custody of such vessel, in saving the same, or the cargo, or any part thereof, or shall wilfully deface the marks of goods, being part of the cargo of such vessel, before they shall be inventoried by the commissioner as aforesaid, or some other person concerned in the care and preservation of such goods, such person shall forfeit and pay for every such offence the sum of one hundred dollars, to be recovered with costs, by action of debt, in any court having cognizance thereof, in the name of, and to the use and benefit of the owner of the ship, vessel, or goods, as the case may be; and in case of failure to pay such forfeiture immediately, or to give security to the satisfaction of the court before whom the conviction shall be had, to pay the same in twenty days, the said court shall immediately sentence the person so convicted, to imprisonment in the county gaol, for any time not exceeding six calendar months; and further, in case any goods shall be found upon or in possession of any person, that shall have been stolen, or unlawfully carried off from any ship or other vessel in distress, or stranded as aforesaid, the person upon whom, or in whose possession such goods shall be found, shall, on demand, deliver the same to the owner, supercargo, master or commissioner, or to such other person as shall be authorized by the owner, supercargo, master or commissioner, to receive the same, and shall be also liable to pay to the owner double the value of the said goods so found upon him or her, or in his or her possession, with costs, to be sued for and recovered in any court having cognizance thereof.

Who shall not enter on board of vessels in distress.

Penalty for injury done.

Goods stolen or unlawfully carried away to be delivered up.

8. *And be it enacted*, That should any vessel or other property, be cast on shore within the limits of any of the counties of this state, bordering on the sea, bays, sounds, rivers, creeks or inlets, and no person present to claim the same as owner, supercargo, consignee, insurer, agent or master, the commissioner of this district, and in case of his death or absence, a commissioner of any district of said county, shall take possession thereof, and cause an inventory to be made, and recorded in manner prescribed by the sixth section of this act, after which it shall be the duty of said commissioner or commissioners, to cause a true description of said goods, with the marks, numbers and kinds, as far

Vessels cast on shore and no owner present, duty of commissioner.

1820.

transporting and securing the offender, which said costs and expenses shall be paid to the said sheriff by the treasurer, and shall be discharged by the said inspectors of the state-prison, at such time as funds belonging to the said institution shall be in their hands sufficient to discharge the same, and for such costs the said sheriff shall be accountable, and shall pay the same to the several persons entitled thereto.

In what cases the costs of prosecution to be paid by the county collector.

4. *And be it enacted*, That in case the offender or offenders shall be sentenced to pay a fine, or to imprisonment in the county gaol, or to be whipped, and he, she or they, are unable to pay the costs of prosecution, it shall be the duty of the county collector of said county, and he is hereby directed to pay the same to the sheriff of the said county, on the bills of costs duly taxed being shewn him; and in case the offender or offenders shall happen to escape after verdict against him, her or them, or for any other cause, no sentence should be passed upon such offender or offenders, it shall in like manner be the duty of the county collector of the county, to pay to the sheriff all the fees which he shall have paid to the jurors and witnesses as aforesaid, on a statement in writing, made by the sheriff under oath or affirmation, of the sums paid to the said jurors and witnesses, on each and every case; and for such sum or sums so paid as before directed, it shall be the duty of the said county collector to take a receipt of the said sheriff, which sum or sums shall be allowed the said collector in the settlement of his accounts; and when on any indictment there is an acquittal, the sheriff shall pay the jurors', witnesses' and constable's fees, and the said bill of fees, on proper vouchers produced, shall, on demand, be repaid to the said sheriff by the county collector, from any moneys in his hands belonging to the county, and be allowed to him in the settlement of his accounts.

In what manner fees are to be paid on judgment of acquittal before a justice.

5. *And be it enacted*, That when there shall be judgment of acquittal before justices of the peace, in cases where by law they may try persons charged with any crime against the state, the said justices shall make out a bill of the fees by law allowed to said justices, witnesses for the state, and constables, and certify the said bill to be just and true, to the court of general sessions, at their lawful stated term, to be by them approved, and by their order, certified by the clerk of the county, who shall deliver the same to the justice, to be by him recorded in his docket, and then delivered to the constable, who shall draw on the county collector for the same, and make return of the said money to said justice, to be by him paid to the persons entitled thereto.

Fines on conviction to be paid by the sheriff to the county collector.

6. *And be it enacted*, That all fines received by any sheriff on conviction upon any indictment, or which may be imposed by any justice or justices, shall be by him paid over to the county collector, and carried to the credit of the county; and the sheriff of each county for the time being, shall annually render to the county collector, an account of all fines imposed within any year in which he is in office, and on neglect or refusal so to do, shall forfeit and pay five hundred dollars above the amount of

finer imposed, to be recovered with costs of suit, in the name of the county collector for the time being, to and for the use of the county, and the clerk of the county shall make return of said fines to the board of chosen freeholders at their annual meeting, as a check against the county collector.

1820.

7. *And be it enacted*, That all bills of costs in criminal cases, shall hereafter be taxed by the court before whom the trial was had, or sentence passed: and it is hereby made the duty of the said courts, without delay, to tax all such bills of costs, in criminal cases, as shall be presented to them: and the inspectors of the state-prison shall pay no bills of costs, unless taxed as aforesaid.

Bills of costs in criminal cases to be taxed by the court

8. *And be it enacted*, That in all cases in which any offender shall be convicted of any offence for which he or she shall be sentenced to imprisonment for such length of time as by law requires that he or she be imprisoned in the state-prison, and he or she shall have any estate, real or personal, or both, the same shall be bound by the judgment against such offender, from the time of rendering thereof, and shall be liable for the payment of the fine (in case any fine be adjudged) costs of prosecution and expenses of sustaining, securing and transporting such offender to the state-prison, and finding and providing clothing and other necessities, during the term of imprisonment; for the recovery of which, it shall be the duty of the clerk of the court by whom such judgment was rendered, or sentence pronounced, on the application of the attorney-general, or his deputy legally appointed, to transmit, under the seal of said court, a certified copy of the record of said judgment or sentence, and bill of costs, to the supreme court; whereupon it shall and may be lawful for the supreme court, on motion of the attorney-general, to award a writ of scire facias against such offender, to shew cause why execution should not be awarded against him or her, in behalf of the state, for the fine, costs and expenses aforesaid; and to cause further proceedings to be had, as in cases of forfeited recognizances, is by law allowed and directed: that in case the offender shall be imprisoned in the state-prison, at the time of issuing the said scire facias, it shall be the duty of the said attorney-general to cause a copy of the said scire facias to be served on the keeper of the state-prison, at least ten days before the return thereof, whose duty it shall be forthwith to deliver the same to such offender; and in case such offender shall be unable to procure counsel, the court shall thereupon appoint counsel to appear on his or her behalf.

Estates of offenders bound by judgment for the payment of costs and expenses.

Manner of recovery.

9. *And be it enacted*, That it shall and may be lawful for the board of inspectors of the state-prison, to punish any offender confined in said prison, in case of refractory, disorderly behaviour, or disobedience to the rules and orders of the said inspectors, by confinement of such offender in the cells and dungeon of said prison, and keeping him or her on bread and water only, for any time not exceeding twenty days at one time, and for one offence, and to prevent escapes, to put on any refractory, disobedient offender, such irons as they may judge necessary.

Authority of inspectors to punish offenders for disorderly behaviour.

10. Repealed, and supplied by act, November 11, 1820.

1820.

Constituted a board, and may appoint an acting inspector.

11. *And be it enacted*, That the said three persons shall be a board of inspectors, two of whom shall be a quorum to transact business, and they shall annually, or oftener if necessary, appoint one of their number as the acting inspector, and the said board of inspectors, and acting inspector, appointed as aforesaid, are hereby vested with the same powers and authorities, and made subject to, and required to perform all the duties and services required of the board of inspectors and acting inspectors in the act to which this is a supplement.

Duty of attending physician

12. *And be it enacted*, That the attending physician shall, at least once in every week, visit every cell in the state-prison, in which a prisoner is confined, and that whenever in his opinion the enlargement of any prisoner sentenced to solitary confinement, shall become absolutely necessary, in order to preserve life, that it shall be lawful for the acting inspector to cause such prisoner to be removed from his or her cell, from time to time, and for such length of time as he shall think necessary and proper, but that such prisoner shall in every case be kept from all society.

Allowance to the keeper on sales, repealed

13. *And be it enacted*, That so much of the twelfth section of the act to which this is a supplement, as provides that the keeper of the state-prison shall be entitled to five per cent. on the sales of all articles manufactured in said prison, be, and the same is hereby repealed.

Inspectors may appoint an agent.

14. *And be it enacted*, That it shall be lawful for the inspectors of the state-prison, to appoint an agent in any place where they may deem the same expedient, for the sale of any articles manufactured in the said state-prison, and to allow to every such agent reasonable commissions on all sales by him made.

Acts repealed,

15. *And be it enacted*, That the act, entitled "A supplement to an act, entitled an act making provision for carrying into effect the act for the punishment of crimes," passed the nineteenth day of November, one thousand seven hundred and ninety-nine; and an act, entitled "A further supplement to an act, entitled an act for the punishment of crimes," passed the first day of December, one thousand eight hundred and two; and an act, entitled "A supplement to the act, entitled an act making provision for the carrying into effect the act for the punishment of crimes," passed the first day of March, one thousand eight hundred and four; and an act, entitled "A further supplement to the act, entitled an act making provision for carrying into effect the act for the punishment of crimes," passed the fourth day of December, one thousand eight hundred and seven; and an act, entitled "An act concerning costs of prosecution against persons sentenced to hard labor and imprisonment in the state-prison," passed the eighteenth day of February, one thousand eight hundred and thirteen; and an act, entitled "An act to repeal an act, entitled an act making provision for the carrying into effect the act for the punishment of crimes, and for other purposes," passed the sixteenth day of February, one thousand eight hundred and sixteen; and the second section of an act, entitled "A supplement to the act, entitled an act for the punishment of crimes," passed

March eighteenth, one thousand seven hundred and ninety-six, which said supplemental act was passed the twelfth day of February, one thousand eight hundred and eighteen; and an act, entitled "A further supplement to an act, entitled an act making provision for carrying into effect the act for the punishment of crimes," passed the sixteenth day of February, one thousand eight hundred and eighteen; and the thirteenth section of the act to which this is a supplement, be, and the same are hereby repealed: *Provided*, That this repeal shall not render invalid or in any way impair any act or thing legally done or transacted in virtue of the said repealed acts, or any of them.

1820.

but not to render invalid things legally done in virtue of the repealed acts.

A SUPPLEMENT to an act, entitled "An act for the relief of creditors against absconding and absent debtors."

PAM. 139.
See ante 366.

Passed the 30th of May, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That it shall be the duty of the court out of which any foreign attachment may issue, against any debtor or debtors who may reside out of this state, to order the clerk of such court to cause notice of the issuing such attachment, and at whose suit, against whose estate, for what sum, and when returned, to be published in such one or more of the newspapers in this state as said court shall direct, for the space of three calendar months; and in addition to which it shall be in the power of said court, whenever the circumstances of the case shall, in the opinion of said court, require a more extensive publication, to order and direct notice as aforesaid to be published in one of the newspapers printed and published in the state of Pennsylvania or in the state of New-York, at the discretion of the court, for any time not exceeding three calendar months; and that judgment shall not be entered in such cases, until proof to the satisfaction of said court of such publication, so ordered and directed, shall be made: and further, in case it shall appear, by oath or affirmation, to the satisfaction of said court, that notice in writing of the issuing such attachment hath been served on such debtor or debtors, the publication in the state of Pennsylvania or the state of New-York, as aforesaid, shall be dispensed with.

In what manner notice of issuing an attachment is to be given.

2. *And be it enacted*, That whenever any absent or absconding debtor or debtors shall appear to any attachment issued out of any court in this state, pursuant to the provision for that purpose contained in the sixteenth section of the act to which this is a supplement, in any term prior to judgment being had, such debtor or debtors shall, in addition to the recognizance of special bail required by that section, enter into bond, with one or more sufficient sureties, being resident in this state, in case the attachment shall have been issued out of the supreme court; and in case the attachment shall be issued out of the court of common pleas, then in the county in which such court of common pleas

Proceedings in case absent debtor appears.

1830.

shall be held, which bond shall be approved of by the court, and shall be given to the sheriff, for the time being, of the county, in case the attachment shall issue out of any court of common pleas; and to such sheriff as the court shall direct, in case the attachment shall issue out of the supreme court, which bond the sheriff is hereby required to take in his own name, in double the amount of the personal property attached, conditioned for the return of the goods and chattels, rights and credits, moneys and effects, seized and taken by virtue of such writ of attachment, in case judgment shall be rendered for the plaintiff or plaintiffs; and the said sheriff shall, in case of a breach of such condition, on application of the plaintiff or any applying creditor of the said debtor or debtors, assign the said bond, without fee or reward, to such person as the court shall direct, to be prosecuted for the benefit of the plaintiff or plaintiffs, and such creditors as shall have applied to the court or auditors under such attachment, in conformity to the act to which this is a supplement.

Attachment a
lien on the pro-
perty of the
absent debtor.

3. *And be it enacted*, That it shall not be lawful for any person, against whom any foreign or domestic attachment shall issue, after issuing the same, to give, grant, bargain, sell, alien, or in anywise convey any lands, tenements, hereditaments or real estate, or any interest therein, of which he, she or they may be seized, possessed of, or entitled unto, at the time of issuing such writ of attachment; which said writ of attachment shall, immediately on the issuing thereof, become and remain a lien on the said lands, tenements, hereditaments, and real estate, as against the defendant or defendants and all persons claiming from or under him, her or them, by virtue of any such conveyance; until the plaintiff and such of the creditors of the defendant or defendants in attachment, as shall apply under the attachment, shall be satisfied his, her or their just debts, or until judgment shall be rendered against the plaintiff and creditors under the attachment, or the said attachment be discontinued, and that all conveyances made by the defendant or defendants in attachment, pending the said attachment, shall be void against the plaintiff or plaintiffs in attachment, and the creditors that shall become parties thereto.

Proceedings
in case the
property is
found in two
or more coun-
ties.

4. *And be it enacted*, That in cases where the lands, tenements, hereditaments or real estate, or the goods and chattels, rights and credits, moneys and effects, of any absconding or absent debtor or debtors, shall be situate or found in two or more counties in this state, it shall be lawful to issue a writ of attachment out of the supreme court into each county in which such real or personal property shall be situate or found, in which case but one set of auditors shall be appointed, who shall have the same power and authority over the said real and personal property of such absconding or absent debtor or debtors, in securing, selling and disposing thereof, as though the same should be situate or found in one county only, and the said auditors shall be governed as to the same, in all respects as is directed in other cases by the act to which this is a supplement.

Acts repealed.

5. *And be it enacted*, That the second proviso in the twenty-sixth section of the act to which this is a supplement, and the se-

veral supplements to the same act heretofore passed, be, and the same are hereby repealed: *Provided*, That all acts and things, legally done or transacted under them or any of them, shall be as valid as though this repealing section had not passed.

1820.

A SUPPLEMENT to the act, entitled "An act for the punishment of crimes," passed the eighteenth day of March, one thousand seven hundred and ninety-six.

PAM 134.
See ante 244.

Passed the 31st of May, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That if any person shall steal of the money or personal goods and chattels of another, under the price or value of twenty dollars, he or she so offending, shall be deemed guilty of a misdemeanor, and on conviction of any such offence, shall be punished in the county where the conviction may be had, by fine, or imprisonment in cells, or imprisonment at hard labor in the common gaol of the county, or by whipping, at the discretion of the court before whom such conviction shall be had; the fine not to exceed one hundred dollars, nor the term of imprisonment three months, nor the whipping to exceed thirty-nine lashes; and if any person shall steal as aforesaid, or shall in the day or night time commit any of the offences specified in the fifty-ninth section of the act to which this is a supplement, under the value of twenty dollars, as aforesaid, such person or persons, so offending, may be tried and convicted before two justices of the peace, in the manner prescribed in the thirty-second and fifty-ninth sections of the aforesaid act, and no person hereafter convicted in any court of this state, of larceny under the value of twenty dollars, shall be sent to the state-prison for punishment of such offence.

Stealing under the value of twenty dollars, how punished, and before whom to be tried.

See ante 260.

2. *And be it enacted,* That any fines that may be imposed in pursuance of the foregoing section, shall be paid to the county collector, for the use of the county.

Where fines to be paid.

3. *And be it enacted,* That if a butcher, or other person shall sell, offer or expose to sale, the flesh of any animal dying otherwise than by slaughter, or slaughtered while diseased, or any contagious or unwholesome flesh, or if a baker, brewer, distiller or other person, shall sell unwholesome bread, drink or liquor, he or she shall be adjudged guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding fifty dollars, or by imprisonment in the county gaol not exceeding four months.

Manner of punishment for selling or offering for sale certain unwholesome articles.

4. *And be it enacted,* That all crimes enumerated and expressed in the sixty-eighth section of the act to which this is a supplement, the punishment of which not being otherwise provided for in the said act, or some other law of this state, mayhems and atrocious assaults and batteries excepted, shall be punished by fine or imprisonment, or both, at the discretion of the court before whom the conviction shall be had, the fine not to exceed one hundred dollars, and the imprisonment not to exceed six months.

Punishment of certain crimes.

See ante 262.

1820.

Acts repealed.

10. *And be it enacted*, That the act, entitled "An act respecting collectors of townships," passed the twenty-sixth day of January, one thousand eight hundred and sixteen and ; the act, entitled "An act to change the corporate name of the township of Maidenhead, in the county of Hunterdon," passed the twenty-fourth day of the same month of January ; and so much of the act to which this is a supplement, as directs the style and name of "The township of Maidenhead, in the county of Hunterdon ;" and the act entitled a supplement to the act, entitled "An act incorporating the inhabitants of townships, designating their powers and regulating their meetings," passed the twenty-first day of February, one thousand seven hundred and ninety-eight, which supplemental act was passed the fifteenth day of November, one thousand seven hundred and ninety-nine ; and the act, entitled "An act to alter the time of holding the annual town-meetings in the township of Montague, Sandiston and Walpack, in the county of Sussex," passed the eleventh day of November, one thousand eight hundred and five ; and the act entitled a supplement to the act, entitled "An act incorporating the inhabitants of townships, designating their powers, and regulating their meetings," passed the twenty-first day of February, Anno Domini, one thousand seven hundred and ninety-eight, which supplemental act was passed the twenty-fourth day of January, one thousand eight hundred and seventeen ; and the act, entitled "A supplement to the act entitled an act incorporating the inhabitants of townships, designating their powers, and regulating their meetings," passed the twenty-first day of February, Anno Domini, one thousand seven hundred and ninety-eight, which supplemental act was passed the seventh day of February, one thousand eight hundred and sixteen, be, and they are hereby repealed: *Provided*, That nothing in this repealing section shall impair or render invalid, any act or thing legally done or transacted under the said acts hereby repealed.

P.A.M. 126.

AN ACT relative to statutes.

Passed the 26th of May, 1820.

When to be in force.

Statutes of Great-Britain to have no authority in this state.

Acts repealed.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every statute or act of the legislature of this state, which hath been or shall be made, shall commence and be in force and operation from the day of passing thereof, unless another day for its commencement and operation hath been or shall be directed therein.

2. *And be it enacted*, That no statute or act of parliament of England or Great-Britain, shall have force or authority within this state, or be considered as law thereof.

3. *And be it enacted*, That the act, entitled "An act relative to statutes," passed the thirteenth day of June, one thousand seven hundred and ninety-nine ; and the supplement thereto, pass-

ed the twentieth of November, one thousand eight hundred; and the act, entitled "An act relative to foreign reports," passed the first of December, one thousand eight hundred and one; and all acts and supplements to acts coming within the purview of this act; and the act, entitled "An act to alter the appropriation of fees on passing the private laws," passed the twentieth day of February, one thousand seven hundred and ninety-four, be, and the same are hereby repealed.

1820.

AN ACT for securing the laws, and relative to the office of the prerogative court.

PAM. 127.

Passed the 27th of May, 1820.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the secretary of council and clerk of the assembly, shall forthwith, on the passage of any bill into a law, deliver the same to the secretary of state for the time being, to be filed in his office, in such order that the laws of each and every sitting of the legislature, shall be kept in separate bundles, and the year in which the same shall be passed shall be endorsed on each bundle, and not delivered to any person or persons whatsoever, but safely kept by the said secretary in his office, and not suffered to be taken or removed therefrom, on any pretence whatsoever; but the secretary of state for the time being, shall give copies to such person or persons as shall make application for the same, which copies, when certified by said secretary, under his hand and seal, to be a true copy, shall be received in evidence in any court of this state, and be as good, effectual and available in law as if the original was then and there produced and proved, for which service the secretary of state shall be entitled to receive, from the person making application for the same, six cents per sheet, for each and every copy furnished, and for the filing each law, ten cents, to be paid by the treasurer of the state.

Where to be kept and in what manner.

Copies to be evidence.

2. And be it enacted, That the secretary of state shall cause a true copy of each and every law, so delivered to him, to be made, and within four weeks from the end of every sitting of the legislature, deliver the same to the person appointed to print the laws of the state; and it shall be the duty of the secretary of state to assist the printer who may be appointed as aforesaid, in comparing the proof sheets with the original laws, for which purpose the said printer is required to attend at the office of the secretary of state, with the proof sheets of all such laws as he may be appointed to print; and it shall also be the duty of the secretary to make marginal notes to said laws; and that the said secretary shall be entitled to receive, for copying said laws, assisting in comparing the proof sheets and making marginal notes, for each folio of said laws so copied, compared, and notes made, counting one hundred words to a folio, the sum of eight cents, on a certificate signed by the governor or person administering the

Duty of the secretary of state as to the laws.

Compensation.

1820.

government, stating that the service has been performed, and the sum due for the same.

Duty of the
register of the
prerogative
court.

3. *And be it enacted*, That it shall be the duty of the register of the prerogative court, to record the names of the testators of all wills which he may receive, in alphabetical order, and the year in which such wills were proved, in a book to be by him provided for that purpose, and to file the said wills in his office, the wills of each year and county to be put by themselves, and marked with the year and county, and in like manner to record the names of all intestates, inventories of whose estates he may receive, and to file the said inventories in manner aforesaid.

Fees for cer-
tain services.

4. *And be it enacted*, That the secretary of state shall be entitled to receive, for the services hereinafter mentioned, the following fees: For filing every bond or other instrument of writing for incorporated bodies, or for persons in their private capacities, twelve cents, to be paid by the person requiring the same to be filed; filing every bond or instrument of writing of a public nature, twelve cents; and for recording deeds and other instruments of writing belonging to the state, and for copies of laws, instruments of writing, or records, when applied for by the governor, attorney-general or treasurer, for public purposes, the same fees as are directed by law to be paid by private persons, to be paid by the treasurer upon a certificate signed by the governor.

Acts repealed.

5. *And be it enacted*, That the act, entitled "An act for securing the laws, and relative to the office of the prerogative court," passed the twenty-fifth day of November, one thousand eight hundred and eight; and the supplement thereto, passed the seventeenth day of February, one thousand eight hundred and thirteen; and the act, entitled "An act relative to the fees of the secretary of state and register of the prerogative court," passed the sixth day of February, one thousand eight hundred and seventeen, be, and the same are hereby repealed: *Provided*, That nothing herein contained is intended to invalidate any act or thing lawfully done, or right acquired under them or any of them.

PAM. 129.

AN ACT establishing an independent battalion within the bounds of the city of Trenton.

Passed the 20th of May, 1820.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the uniform and other companies of militia, at present formed, or which may hereafter be formed, a majority of the members of which shall reside within the bounds of the city of Trenton, shall be, and they are hereby set off and formed into an independent battalion, to be attached to the Hunterdon brigade, and shall meet for exercise by companies, upon the day appointed by the militia law for company trainings; by battalion, upon the second Monday in May, and by battalion for exercise and inspection, upon the Friday immediately following the first Monday in June,

or such other day as the commandant of the brigade shall order, and shall further be entitled to all the privileges, and subjected to all the penalties an independent battalion may, by the militia law of this state, be subjected to.

1820.

A SUPPLEMENT to an act, entitled "An act making provision for carrying into effect the act for the punishment of crimes," passed February fifteenth, one thousand seven hundred and ninety-eight.

PAM. 129.
See ante 325.

Passed the 30th of May, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the inspectors of the state-prison shall, from and after the passing of this act, be entitled to receive the sum of one dollar and fifty cents per day, for every day necessarily employed in the duties of their appointment, out of any moneys in the funds of said prison.

Inspectors' compensation.

2. *And be it enacted,* That it shall be the duty of the inspectors of the state-prison, to detain any offender imprisoned in said prison, by sentence of any court, in confinement, after the expiration of the term of his or her sentence, until he or she shall have discharged the costs of prosecution, together with whatever sum shall be due from such offender, to the said prison, unless the costs and sums due shall be remitted, according to the provisions of this or some other act of the legislature of this state; and further, that the governor, or person administering the government, shall have power to remit any costs of prosecution or debt that shall or may be due from any criminal, imprisoned in the state-prison, on a recommendation from the inspectors of the said prison, certifying that in their opinion, the said criminal has no property, and from bodily inability or other cause, is unable to earn, and in their opinion will continue to be unable to earn more than is sufficient to defray the expense of his or her clothing and provisions.

Duty of inspectors as to detaining offenders after sentence of confinement has expired.

In what manner costs and debt of such offenders may be remitted.

3. *And be it enacted,* That when any verdict shall be rendered against any offender or offenders, in any of the courts of this state, on any indictment, it shall be the duty of the sheriff of the county where the verdict shall be rendered, to pay the jury, who have passed on the trial of the cause, their legal fees, before their separation, and also to pay the witnesses, who shall have been sworn or affirmed, to testify in behalf of the state, their legal fees before they leave the court; and in case the offender or offenders, against whom such verdict shall be rendered, shall be sentenced to imprisonment for such a length of time, as by law requires him, her or them to be sent to the state-prison, it shall be the duty of the inspectors of the state-prison, or any two of them, to certify to the treasurer of this state, the amount of the costs of prosecution, delivered to them, duly taxed, together with the sum due to the sheriff for his mileage and expenses, for sustaining,

Duty of sheriffs as to paying jurors and witnesses fees.

Inspectors to certify to the treasurer amount of costs and expenses to be paid to the sheriff.

1830.

transporting and securing the offender, which said costs and expenses shall be paid to the said sheriff by the treasurer, and shall be discharged by the said inspectors of the state-prison, at such time as funds belonging to the said institution shall be in their hands sufficient to discharge the same, and for such costs the said sheriff shall be accountable, and shall pay the same to the several persons entitled thereto.

In what cases
the costs of
prosecution to
be paid by the
county collec-
tor.

4. *And be it enacted*, That in case the offender or offenders shall be sentenced to pay a fine, or to imprisonment in the county gaol, or to be whipped, and he, she or they, are unable to pay the costs of prosecution, it shall be the duty of the county collector of said county, and he is hereby directed to pay the same to the sheriff of the said county, on the bills of costs duly taxed being shewn him; and in case the offender or offenders shall happen to escape after verdict against him, her or them, or for any other cause, no sentence should be passed upon such offender or offenders, it shall in like manner be the duty of the county collector of the county, to pay to the sheriff all the fees which he shall have paid to the jurors and witnesses as aforesaid, on a statement in writing, made by the sheriff under oath or affirmation, of the sums paid to the said jurors and witnesses, on each and every case; and for such sum or sums so paid as before directed, it shall be the duty of the said county collector to take a receipt of the said sheriff, which sum or sums shall be allowed the said collector in the settlement of his accounts; and when on any indictment there is an acquittal, the sheriff shall pay the jurors', witnesses' and constable's fees, and the said bill of fees, on proper vouchers produced, shall, on demand, be repaid to the said sheriff by the county collector, from any moneys in his hands belonging to the county, and be allowed to him in the settlement of his accounts.

In what man-
ner fees are to
be paid on
judgment of
acquittal be-
fore a justice.

5. *And be it enacted*, That when there shall be judgment of acquittal before justices of the peace, in cases where by law they may try persons charged with any crime against the state, the said justices shall make out a bill of the fees by law allowed to said justices, witnesses for the state, and constables, and certify the said bill to be just and true, to the court of general sessions, at their lawful stated term, to be by them approved, and by their order, certified by the clerk of the county, who shall deliver the same to the justice, to be by him recorded in his docket, and then delivered to the constable, who shall draw on the county collector for the same, and make return of the said money to said justice, to be by him paid to the persons entitled thereto.

Fines on con-
viction to be
paid by the
sheriff to the
county collec-
tor.

6. *And be it enacted*, That all fines received by any sheriff on conviction upon any indictment, or which may be imposed by any justice or justices, shall be by him paid over to the county collector, and carried to the credit of the county; and the sheriff of each county for the time being, shall annually render to the county collector, an account of all fines imposed within any year in which he is in office, and on neglect or refusal so to do, shall forfeit and pay five hundred dollars above the amount of

finest imposed, to be recovered with costs of suit, in the name of the county collector for the time being, to and for the use of the county, and the clerk of the county shall make return of said fines to the board of chosen freeholders at their annual meeting, as a check against the county collector.

1820.

7. *And be it enacted*, That all bills of costs in criminal cases, shall hereafter be taxed by the court before whom the trial was had, or sentence passed: and it is hereby made the duty of the said courts, without delay, to tax all such bills of costs, in criminal cases, as shall be presented to them: and the inspectors of the state-prison shall pay no bills of costs, unless taxed as aforesaid.

Bills of costs in criminal cases to be taxed by the court

8. *And be it enacted*, That in all cases in which any offender shall be convicted of any offence for which he or she shall be sentenced to imprisonment for such length of time as by law requires that he or she be imprisoned in the state-prison, and he or she shall have any estate, real or personal, or both, the same shall be bound by the judgment against such offender, from the time of rendering thereof, and shall be liable for the payment of the fine (in case any fine be adjudged) costs of prosecution and expenses of sustaining, securing and transporting such offender to the state-prison, and finding and providing clothing and other necessities, during the term of imprisonment; for the recovery of which, it shall be the duty of the clerk of the court by whom such judgment was rendered, or sentence pronounced, on the application of the attorney-general, or his deputy legally appointed, to transmit, under the seal of said court, a certified copy of the record of said judgment or sentence, and bill of costs, to the supreme court; whereupon it shall and may be lawful for the supreme court, on motion of the attorney-general, to award a writ of scire facias against such offender, to shew cause why execution should not be awarded against him or her, in behalf of the state, for the fine, costs and expenses aforesaid; and to cause further proceedings to be had, as in cases of forfeited recognizances, is by law allowed and directed: that in case the offender shall be imprisoned in the state-prison, at the time of issuing the said scire facias, it shall be the duty of the said attorney-general to cause a copy of the said scire facias to be served on the keeper of the state-prison, at least ten days before the return thereof, whose duty it shall be forthwith to deliver the same to such offender; and in case such offender shall be unable to procure counsel, the court shall thereupon appoint counsel to appear on his or her behalf.

Estates of offenders bound by judgment for the payment of costs and expenses.

Manner of recovery.

9. *And be it enacted*, That it shall and may be lawful for the board of inspectors of the state-prison, to punish any offender confined in said prison, in case of refractory, disorderly behaviour, or disobedience to the rules and orders of the said inspectors, by confinement of such offender in the cells and dungeon of said prison, and keeping him or her on bread and water only, for any time not exceeding twenty days at one time, and for one offence, and to prevent escapes, to put on any refractory, disobedient offender, such irons as they may judge necessary.

Authority of inspectors to punish offenders for disorderly behaviour.

10. Repealed, and supplied by act, November 11, 1820.

1820.

Constituted a board, and may appoint an acting inspector.

11. *And be it enacted*, That the said three persons shall be a board of inspectors, two of whom shall be a quorum to transact business, and they shall annually, or oftener if necessary, appoint one of their number as the acting inspector, and the said board of inspectors, and acting inspector, appointed as aforesaid, are hereby vested with the same powers and authorities, and made subject to, and required to perform all the duties and services required of the board of inspectors and acting inspectors in the act to which this is a supplement.

Duty of attending physician

12. *And be it enacted*, That the attending physician shall, at least once in every week, visit every cell in the state-prison, in which a prisoner is confined, and that whenever in his opinion the enlargement of any prisoner sentenced to solitary confinement, shall become absolutely necessary, in order to preserve life, that it shall be lawful for the acting inspector to cause such prisoner to be removed from his or her cell, from time to time, and for such length of time as he shall think necessary and proper, but that such prisoner shall in every case be kept from all society.

Allowance to the keeper on sales, repealed

13. *And be it enacted*, That so much of the twelfth section of the act to which this is a supplement, as provides that the keeper of the state-prison shall be entitled to five per cent. on the sales of all articles manufactured in said prison, be, and the same is hereby repealed.

Inspectors may appoint an agent.

14. *And be it enacted*, That it shall be lawful for the inspectors of the state-prison, to appoint an agent in any place where they may deem the same expedient, for the sale of any articles manufactured in the said state-prison, and to allow to every such agent reasonable commissions on all sales by him made.

Acts repealed,

15. *And be it enacted*, That the act, entitled "A supplement to an act, entitled an act making provision for carrying into effect the act for the punishment of crimes," passed the nineteenth day of November, one thousand seven hundred and ninety-nine; and an act, entitled "A further supplement to an act, entitled an act for the punishment of crimes," passed the first day of December, one thousand eight hundred and two; and an act, entitled "A supplement to the act, entitled an act making provision for the carrying into effect the act for the punishment of crimes," passed the first day of March, one thousand eight hundred and four; and an act, entitled "A further supplement to the act, entitled an act making provision for carrying into effect the act for the punishment of crimes," passed the fourth day of December, one thousand eight hundred and seven; and an act, entitled "An act concerning costs of prosecution against persons sentenced to hard labor and imprisonment in the state-prison," passed the eighteenth day of February, one thousand eight hundred and thirteen; and an act, entitled "An act to repeal an act, entitled an act making provision for the carrying into effect the act for the punishment of crimes, and for other purposes," passed the sixteenth day of February, one thousand eight hundred and sixteen; and the second section of an act, entitled "A supplement to the act, entitled an act for the punishment of crimes," passed

March eighteenth, one thousand seven hundred and ninety-six, which said supplemental act was passed the twelfth day of February, one thousand eight hundred and eighteen; and an act, entitled "A further supplement to an act, entitled an act making provision for carrying into effect the act for the punishment of crimes," passed the sixteenth day of February, one thousand eight hundred and eighteen; and the thirteenth section of the act to which this is a supplement, be, and the same are hereby repealed: *Provided*, That this repeal shall not render invalid or in any way impair any act or thing legally done or transacted in virtue of the said repealed acts, or any of them.

1820.

but not to render invalid things legally done in virtue of the repealed acts.

A SUPPLEMENT to an act, entitled "An act for the relief of creditors against absconding and absent debtors."

PAM. 139.
See ante 356.

Passed the 30th of May, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That it shall be the duty of the court out of which any foreign attachment may issue, against any debtor or debtors who may reside out of this state, to order the clerk of such court to cause notice of the issuing such attachment, and at whose suit, against whose estate, for what sum, and when returned, to be published in such one or more of the newspapers in this state as said court shall direct, for the space of three calendar months; and in addition to which it shall be in the power of said court, whenever the circumstances of the case shall, in the opinion of said court, require a more extensive publication, to order and direct notice as aforesaid to be published in one of the newspapers printed and published in the state of Pennsylvania or in the state of New-York, at the discretion of the court, for any time not exceeding three calendar months; and that judgment shall not be entered in such cases, until proof to the satisfaction of said court of such publication, so ordered and directed, shall be made: and further, in case it shall appear, by oath or affirmation, to the satisfaction of said court, that notice in writing of the issuing such attachment hath been served on such debtor or debtors, the publication in the state of Pennsylvania or the state of New-York, as aforesaid, shall be dispensed with.

In what manner notice of issuing an attachment is to be given.

2. *And be it enacted*, That whenever any absent or absconding debtor or debtors shall appear to any attachment issued out of any court in this state, pursuant to the provision for that purpose contained in the sixteenth section of the act to which this is a supplement, in any term prior to judgment being had, such debtor or debtors shall, in addition to the recognizance of special bail required by that section, enter into bond, with one or more sufficient sureties, being resident in this state, in case the attachment shall have been issued out of the supreme court; and in case the attachment shall be issued out of the court of common pleas, then in the county in which such court of common pleas

Proceedings in case absent debtor appears.

1830.

shall be held, which bond shall be approved of by the court, and shall be given to the sheriff, for the time being, of the county, in case the attachment shall issue out of any court of common pleas; and to such sheriff as the court shall direct, in case the attachment shall issue out of the supreme court, which bond the sheriff is hereby required to take in his own name, in double the amount of the personal property attached, conditioned for the return of the goods and chattels, rights and credits, moneys and effects, seized and taken by virtue of such writ of attachment, in case judgment shall be rendered for the plaintiff or plaintiffs; and the said sheriff shall, in case of a breach of such condition, on application of the plaintiff or any applying creditor of the said debtor or debtors, assign the said bond, without fee or reward, to such person as the court shall direct, to be prosecuted for the benefit of the plaintiff or plaintiffs, and such creditors as shall have applied to the court or auditors under such attachment, in conformity to the act to which this is a supplement.

Attachment a lien on the property of the absent debtor.

3. *And be it enacted*, That it shall not be lawful for any person, against whom any foreign or domestic attachment shall issue, after issuing the same, to give, grant, bargain, sell, alien, or in anywise convey any lands, tenements, hereditaments or real estate, or any interest therein, of which he, she or they may be seized, possessed of, or entitled unto, at the time of issuing such writ of attachment; which said writ of attachment shall, immediately on the issuing thereof, become and remain a lien on the said lands, tenements, hereditaments, and real estate, as against the defendant or defendants and all persons claiming from or under him, her or them, by virtue of any such conveyance; until the plaintiff and such of the creditors of the defendant or defendants in attachment, as shall apply under the attachment, shall be satisfied his, her or their just debts, or until judgment shall be rendered against the plaintiff and creditors under the attachment, or the said attachment be discontinued, and that all conveyances made by the defendant or defendants in attachment, pending the said attachment, shall be void against the plaintiff or plaintiffs in attachment, and the creditors that shall become parties thereto.

Proceedings in case the property is found in two or more counties.

4. *And be it enacted*, That in cases where the lands, tenements, hereditaments or real estate, or the goods and chattels, rights and credits, moneys and effects, of any absconding or absent debtor or debtors, shall be situate or found in two or more counties in this state, it shall be lawful to issue a writ of attachment out of the supreme court into each county in which such real or personal property shall be situate or found, in which case but one set of auditors shall be appointed, who shall have the same power and authority over the said real and personal property of such absconding or absent debtor or debtors, in securing, selling and disposing thereof, as though the same should be situate or found in one county only, and the said auditors shall be governed as to the same, in all respects as is directed in other cases by the act to which this is a supplement.

Acts repealed.

5. *And be it enacted*, That the second proviso in the twenty-sixth section of the act to which this is a supplement, and the se-

veral supplements to the same act heretofore passed, be, and the same are hereby repealed: *Provided*, That all acts and things, legally done or transacted under them or any of them, shall be as valid as though this repealing section had not passed.

1820.

A SUPPLEMENT to the act, entitled "An act for the punishment of crimes," passed the eighteenth day of March, one thousand seven hundred and ninety-six.

PAM 134.

See ante 244.

Passed the 31st of May, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That if any person shall steal of the money or personal goods and chattels of another, under the price or value of twenty dollars, he or she so offending, shall be deemed guilty of a misdemeanor, and on conviction of any such offence, shall be punished in the county where the conviction may be had, by fine, or imprisonment in cells, or imprisonment at hard labor in the common gaol of the county, or by whipping, at the discretion of the court before whom such conviction shall be had; the fine not to exceed one hundred dollars, nor the term of imprisonment three months, nor the whipping to exceed thirty-nine lashes; and if any person shall steal as aforesaid, or shall in the day or night time commit any of the offences specified in the fifty-ninth section of the act to which this is a supplement, under the value of twenty dollars, as aforesaid, such person or persons, so offending, may be tried and convicted before two justices of the peace, in the manner prescribed in the thirty-second and fifty-ninth sections of the aforesaid act, and no person hereafter convicted in any court of this state, of larceny under the value of twenty dollars, shall be sent to the state-prison for punishment of such offence.

Stealing under the value of twenty dollars, how punished, and before whom to be tried.

See ante 260.

2. *And be it enacted,* That any fines that may be imposed in pursuance of the foregoing section, shall be paid to the county collector, for the use of the county.

Where fines to be paid.

3. *And be it enacted,* That if a butcher, or other person shall sell, offer or expose to sale, the flesh of any animal dying otherwise than by slaughter, or slaughtered while diseased, or any contagious or unwholesome flesh, or if a baker, brewer, distiller or other person, shall sell unwholesome bread, drink or liquor, he or she shall be adjudged guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding fifty dollars, or by imprisonment in the county gaol not exceeding four months.

Manner of punishment for selling or offering for sale certain unwholesome articles.

4. *And be it enacted,* That all crimes enumerated and expressed in the sixty-eighth section of the act to which this is a supplement, the punishment of which not being otherwise provided for in the said act, or some other law of this state, mayhems and atrocious assaults and batteries excepted, shall be punished by fine or imprisonment, or both, at the discretion of the court before whom the conviction shall be had, the fine not to exceed one hundred dollars, and the imprisonment not to exceed six months.

Punishment of certain crimes.

See ante 262.

1820.

Slaves may be punished for certain offences, or sent out of the United States on conditions.

See sec. 2, act Nov. 3, 1820.

What to be done by the owner of the slave.

See sec. 2, act Nov. 3, 1820.

Passing counterfeit notes, &c.

Engraving plates for forging notes, &c.

Having in possession and receiving forged notes with intent to pass them.

5. *And be it enacted*, That when any slave shall be convicted of the crime of arson, burglary, rape or robbery, or of an assault and battery, with intent to commit murder, rape, burglary or robbery, it shall be lawful for the court before whom such conviction shall be had, either to sentence said slave to such punishment as the law hath provided, or hereafter may provide for the punishment of said slave, or to order him or her to be sent from and out of this state and the United States; *provided* the owner of such slave shall enter into bond to the state of New-Jersey in the sum of four hundred dollars, with sufficient surety or sureties, to be approved of by the court, conditioned, that he or she will, within such reasonable time as shall be allowed by the court, not exceeding two calendar months, send such slave out of this state and the United States; which bond shall be filed in the clerk's office of the county in which such conviction shall be had: *And provided also*, That such owner pay the costs and charges of prosecuting and keeping said slave.

6. *And be it enacted*, That on the owner of such slave producing to the sheriff or gaoler, an order of the court for sending away such slave, and said owner paying all costs and charges that have accrued, the said sheriff or gaoler shall deliver up such slave to his or her owner; and further, that when any person who shall have given bond as aforesaid, shall produce to the court before whom such slave was convicted, such evidence as shall be satisfactory to the court, that the order of said court for sending such slave without this state and the United States, hath been fully and bona fide complied with and executed, the said court shall order the same entered on the minutes of the court, and the affidavits, documents, or other written evidence of the same, to be filed by the clerk of the court, which said order of the court, after being duly entered on the minutes of the court, shall be sufficient evidence that the condition of said bond hath been complied with.

7. *And be it enacted*, That if any person shall sell or exchange, or offer for sale or exchange, or willingly receive, any forged or counterfeit promissory note, with intention to have the same uttered or passed, to defraud any person, or body politic or corporate, then every such person being thereof convicted by due course of law, shall be deemed guilty of a high misdemeanor.

8. *And be it enacted*, That if any person shall make or engrave, cause or procure to be made or engraved, any plate for forging or counterfeiting any promissory note for the payment of money, in the name of any person or body politic or corporate, then every such person being thereof convicted by due course of law, shall be deemed guilty of a high misdemeanor.

9. *And be it enacted*, That if any person shall have in his or her possession, or receive from any other person, any forged or counterfeit promissory note for the payment of money, with intent to utter or pass the same, or to permit or cause, or procure the same to be uttered or passed, with intention to defraud any person or body politic or corporate whatsoever, knowing the same to be forged or counterfeited, then every such person being

thereof convicted by due course of law, shall be deemed guilty of a high misdemeanor.

1820.

10. *And be it enacted*, That if any person shall have or keep in his or her possession, any blank or unfinished note, made in the form and similitude of any promissory note for the payment of money, made to be issued by any incorporated bank in this state, or any other of the United States, with intention to fill up and complete such blank or unfinished note, or to permit, cause, or procure the same to be filled up and completed, in order to utter or pass the same, or to permit, cause, or procure the same to be uttered or passed, to defraud any person or body politic or corporate whatsoever, the person in whose custody or possession such blank or unfinished note shall be found, being thereof convicted, according to due course of law, shall be guilty of a high misdemeanor.

Possessing blank notes with intention to fill up and pass them.

11. *And be it enacted*, That if any person shall have, or keep in his or her custody or possession, any plate for forging or counterfeiting any promissory note for the payment of money, in the form or similitude of any promissory note, issued by any of the banks aforesaid, with intent to forge or counterfeit, or assist in forging or counterfeiting, or to permit, cause, or procure to be counterfeited, any promissory note, issued by any of the aforesaid banks, the person in whose possession or custody such plate shall be found, being thereof convicted by due course of law, shall be deemed guilty of a high misdemeanor.

Possessing plates with intention to forge notes.

12. *And be it enacted*, That any person convicted of any of the offences mentioned and described in either of the five next preceding sections of this act, shall be punished by fine or solitary imprisonment in the cells, or both: *Provided*, such imprisonment shall not exceed the term of two years, nor such fine the sum of two thousand dollars, at the discretion of the court.

Punishment of the offences mentioned in the five last sections.

13. *And be it enacted*, That no person or persons shall make, or cause to be made, any paper in imitation of the kind which is usually made use of for bank notes, unless by a permit, under the hand and seal of the governor of this state, or the person administering the government, which permit the governor or person administering the government, is hereby authorized to grant, on the application of the president and directors of any incorporated banking company in this state, or any of the United States, which permit shall specify the quantity of paper so authorized to be made, the whole of which paper shall, when finished, be delivered to the president and directors of the banking company applying for said permit, or their order, the person or persons manufacturing the said paper to declare, under oath or affirmation, that the whole of the paper so manufactured, has been by him or them delivered to the said banking company or their order, which oath or affirmation shall be taken and subscribed before any one of the justices of the peace of the county in which the said paper shall be delivered, and by him filed in the clerk's office of the county, and any person making any paper of the kind herein before described, without a permit, as before direct-

Paper used for bank notes, only to be made by permit of the governor.

1820.

ed, and being thereof convicted by due course of law, shall be deemed guilty of a misdemeanor, and punished by fine not exceeding two thousand dollars, or imprisonment not exceeding three months, in the county gaol.

Possessing paper used for bank notes.

14. *And be it enacted*, That any person or persons whatsoever, upon whom may be found any paper of the description aforesaid, whether manufactured within or without this state, and not made for the use of some incorporated bank, as before authorized and permitted, shall be deemed guilty of a misdemeanor, and on conviction thereof by due course of law, shall be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding one year, or both, at the discretion of the court.

Counterfeiting gold or silver coins.

15. *And be it enacted*, That if any person shall counterfeit, or cause or procure to be counterfeited, any of the species of gold or silver coins now current, or which hereafter shall be current in this state, or shall pass or give in payment, or offer to pass or give in payment the same, knowing the same to be counterfeit, such person so offending, shall be deemed guilty of a high misdemeanor, and being thereof convicted by due course of law, shall be punished by fine or imprisonment in the cells, or both, at the discretion of the court before whom such conviction shall be had: *Provided*, That the imprisonment shall not exceed the term of two years, nor the fine the sum of two thousand dollars.

Certain offences committed by night, how punished.

16. *And be it enacted*, That if any person shall, by night, unlawfully and maliciously break and enter any shop, warehouse, mill, barn, stable, out-house, or other building whatsoever, with intent to kill, rob, steal, or commit a rape, mayhem, or battery, such person so offending, shall be deemed guilty of a high misdemeanor, and on conviction thereof in due course of law, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the cells for any term or time not exceeding three years.

Governor and council authorized to pardon offenders on condition of their leaving the state, &c.

17. *And be it enacted*, That it shall be lawful for the governor and council to annex to any pardon which they may hereafter grant to any person convicted of any offence against this state, a condition that the said offender so pardoned, shall leave this state, or the United States, and remain absent therefrom for ever thereafter: *Provided*, said offender consent thereto, and accept such pardon upon such condition. *And be it further enacted*, That in case any offender or convict as aforesaid, who shall receive a pardon upon such condition, shall refuse or neglect, for the space of ten days, to comply therewith, by leaving this state, or the United States, as the condition of such pardon shall direct, or shall, after leaving this state, or the United States, voluntarily return, contrary to the condition of such pardon, he or she so offending, shall be deemed guilty of a misdemeanor, and on conviction thereof, before any court of record having criminal jurisdiction in this state, shall be sentenced to be whipped by a constable, not less than twenty nor more than thirty-nine lashes at one time, at the discretion of the court before whom such conviction shall be had, and to be repeated in the same manner, once

in every three months, in any county of this state, where said criminal shall be found voluntarily neglecting or refusing to comply with the condition of such pardon, and it shall be the duty of all justices of the peace, sheriffs, constables, and other civil officers, to apprehend and bring to justice, each and every such offender.

1820.

18. *And be it enacted*, That the governor and council shall have power to liberate from imprisonment, any criminal now confined in the prison of this state, or who shall hereafter be confined in said prison, after the time for which said criminal hath been sentenced shall have expired, or said criminal hath been pardoned, in cases wherein the said governor and council shall be satisfied that the said criminal hath no property, and is unable, and will continue unable to earn more than sufficient to defray the expenses of his or her food and clothing: *Provided*, That nothing in this section shall be construed to destroy, or in any way to impair the right of the state to the property of said criminal so liberated, wherever any such property can be found.

And may liberate those whose sentences as to imprisonment have expired.

19. *And be it enacted*, That hereafter, when there shall be a conviction for the crimes of arson, manslaughter, rape, blasphemy, perjury, burglary, robbery, forgery, assault with intent to rob, or house-breaking by day or by night, with intent to rob or steal; or where there shall be a conviction for stealing of the moneys or personal goods and chattels of another, to the value of fifty dollars or more, it shall be lawful for the court to fine the party convicted, in a sum not exceeding the amount prescribed in the act to which this is a supplement, in such cases, or to sentence the said convict to solitary imprisonment in the cells of the state-prison, or both, at their discretion; but where there shall be sentence of solitary imprisonment in the cells as aforesaid, the term of such imprisonment shall not exceed one-fourth part of the term to which the court might by the said act, have sentenced such convict to solitary imprisonment at hard labor.

Offences in which the offenders may be sentenced to imprisonment in the cells.

20. *And be it enacted*, That if any person shall hereafter be convicted of any crime by reason whereof he or she shall be liable to be sentenced to hard labor in the state-prison, and it be evident to the court before whom such person is convicted, that he or she has before been confined in any state-prison in the United States, under sentence of any court, then such person shall be sentenced to solitary confinement in one of the cells of the state-prison, for one-fourth part of the time which he or she might have been sentenced to imprisonment at hard labor.

Offenders who have before been confined in any state-prison, how punished.

21. *And be it enacted*, That the act, entitled "An act supplementary to the act entitled an act for the punishment of crimes," passed the tenth of March, one thousand seven hundred and ninety-seven; and the act, entitled "An act to punish the venders of unwholesome liquors and provisions," passed the twenty-seventh day of May, one thousand seven hundred and ninety-nine; and the act, entitled "An act to limit and explain the sixty-eighth section of the act entitled an act for the punishment of crimes," passed the eighteenth day of March, one thousand seven hun-

Acts repealed.

1820.

Proviso.

dred and ninety-six; which explanatory act passed the nineteenth day of November, one thousand seven hundred and ninety-nine; and the act, entitled "A supplement to the act entitled an act for the punishment of crimes," passed the eighteenth day of March, seventeen hundred and ninety-six; which supplementary act passed the seventeenth day of March, one thousand eight hundred and one; and the act, entitled "A supplement to the act for the punishment of crimes," passed the twenty-eighth day of November, one thousand eight hundred and nine; and the act, entitled "A further supplement to the act for the punishment of crimes," passed March the eighteenth, one thousand seven hundred and ninety-six; and the act, entitled "An act for the relief of persons confined in the prison of this state," passed the nineteenth day of February, one thousand eight hundred and nineteen, be, and the same are hereby repealed: *Provided nevertheless*, That all the crimes and offences heretofore committed against any of the provisions or enactments of the said repealed acts, or any of them, are not rendered null and done away by the said repeal, but the same may be prosecuted, and the offenders proceeded against to conviction, sentence and punishment in the same way and manner as though the repealing section had not been made or passed, and all acts legally done, and rights acquired under the same, shall be deemed valid and effectual.

See act, November 21, 1820.

PAM. 146.
See ante 273.

A SUPPLEMENT to the act, entitled "An act to regulate the election of members of the legislative council and general assembly, sheriffs and coroners, in this state."

Passed the 1st of June, 1820.

When candidates have an equal number of votes, &c.

Clerk to advertise and receive nominations.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That at every election hereafter to be held in this state, in case two or more candidates, legally nominated for members for the legislative council, general assembly, or for sheriffs or coroners, shall have an equal number of votes, there not being a sufficient number that have a plurality of votes, by reason whereof the number required by law have not been elected, the clerk of the county is hereby directed immediately to set up, in five of the most public places in such county, advertisements giving notice that he will attend at the court-house of the county, on a day by him named in said advertisement, not less than five, nor more than ten days from the Saturday next after the days of election, to receive the nomination of persons to supply the vacancy or vacancies; which nomination, and the election to be held thereon, shall be conducted in every respect, according to the rules laid down in this act and the act to which this is a supplement for the annual election, except that the nominations shall be made only ten days previous to the first day of election then to be held, and the several officers shall be entitled to receive the same fees and

compensation for like services, and be subject to the same fines and penalties as are prescribed by this act and the act to which this is a supplement.

1820.

2. *And be it enacted*, That in case the judge of election, assessor, collector or town-clerk, in any township of this state, shall, at any election to be hereafter held, be in nomination for any of the offices to be chosen at such election, he shall be disqualified from serving in the conducting such election, unless such judge, assessor, collector or town-clerk, before the commencement of the election, shall publicly decline, in the presence of the electors and officers present, standing as a candidate at such election; and in case any judge of election, assessor, collector or town-clerk shall assist in conducting any election, and shall, notwithstanding, be chosen at such election, to any office, his election shall be void and of no effect.

Respecting the officers conducting the election.

3. *And be it enacted*, That in case any vacancy shall hereafter happen in the council or general assembly of this state, by death, resignation, removal or otherwise, of any of the members thereof, it shall be the duty of the vice-president of council or speaker of the house of assembly, in which ever house the vacancy shall happen, to cause such vacancy to be filled: and in case of a vacancy in the office of vice-president of council or speaker of the house of assembly, then and in that case, it shall be the duty of the governor of the state, for the time being, to cause the vacancy or vacancies in the council or house of assembly, to be filled in the manner prescribed by this act and the act to which this is a supplement, unless such vacancy shall happen under such circumstances as to induce a belief in the said vice-president, or speaker, or governor, that the services of such member will not be called for during the remainder of the legislative year then unexpired: *Provided nevertheless*, That in case the board of chosen freeholders of the county in which such vacancy shall happen, shall signify in writing, to the said vice-president, or speaker, or governor, as the case may be, the desire of said board that the vacancy be filled, the said vice-president, or speaker, or governor shall, without delay, proceed as before directed, to cause such vacancy to be filled.

How vacancies in the council and assembly are to be filled.

Proviso.

4. *And be it enacted*, That from and after the passing of this act, no person shall vote in any state or county election, for officers in the government of the United States or of this state, unless such person be a free white male citizen of this state, of the age of twenty-one years, worth fifty pounds proclamation money clear estate, and hath resided in the county where he claims a vote, for at least one year immediately preceding the election.

Who may vote.

5. *And be it enacted*, That every person who shall in other respects be entitled to a vote, and who shall have paid a tax for the use of the county or the state, and whose name shall be enrolled on any duplicate list of the last state or county tax, shall be adjudged by the officers conducting the election to be worth fifty pounds, money aforesaid, clear estate.

Who shall be adjudged worth fifty pounds.

1820.

Who shall be deemed qualified voters in respect to estate.

6. *And be it enacted*, That no person shall hereafter be deemed, by the officers conducting the election, to be a qualified voter, in respect to estate, who has not either paid a tax or whose name is not enrolled in the duplicate as aforesaid, except in the case of persons who may have arrived at the age of twenty-one years since the date of the last duplicate, or of persons removing from one township, wherein they have paid a tax, to another township in the same county, or of persons who may have been inadvertently overlooked by the assessor; in either of which cases, such person claiming a vote, and being in other respects qualified, shall be admitted; and in the case of persons who may have been inadvertently overlooked by the assessor, as aforesaid, their names shall be immediately entered on the tax list.

Not allowed to vote out of the township in which they reside.

Penalty for offering to vote a second time.

7. *And be it enacted*, That no person shall, on any occasion or pretence, be admitted to vote at any election, for the purposes aforesaid, in any township in this state, except only the township in which he usually resides; and in case any person who shall have voted, shall offer himself a second time as a voter, during the same election, either at the same poll or the poll of any other township, such person so offending, shall, for each offence, forfeit and pay the sum of fifty dollars, to be recovered, with costs, in an action of debt, by any overseer of the poor of the township where the offence shall be committed, for the use of the poor; and it is hereby made the duty of any overseer of the poor of such township to prosecute all such offenders, immediately on being informed of such offence having been committed.

Penalty on assessor and collector for enrolling persons not entitled to vote.

8. *And be it enacted*, That in case any assessor or collector shall at any time enrol, on the duplicate of assessment, the name or names of any person or persons not of full age, or the name or names of any person or persons not at the time residing in such township, knowing him or them to be under the age of twenty-one years, or knowing him or them not to reside in said township, with intent and design of admitting such person or persons to vote, the assessor or collector so offending, shall, for each offence, forfeit and pay the sum of one hundred dollars, to be sued for, recovered and applied as is directed by the next preceding section.

Time of opening and closing the poll.

9. *And be it enacted*, That in the evening of the first day of election, the poll shall not be kept open later than the hour of nine o'clock, nor opened in the morning of the day following earlier than the hour of eight o'clock.

Penalties on officers of election, for misbehaviour.

10. *And be it enacted*, That if any clerk of the court of common pleas, judge of election, assessor, collector, town-clerk, or other officer or person concerned in conducting the election, shall neglect, improperly delay, or refuse to perform any of the duties or services required by this or any other act which now is, or hereafter may be in force relative to the election aforesaid, or shall knowingly admit any person to vote, not qualified agreeably to this act, or shall be guilty of corruption, partiality, or manifest misbehaviour in any matter or thing appertaining to any election, as aforesaid, or shall unduly attempt to influence

1820.

the election, every person so offending, shall forfeit and pay one hundred dollars, to be sued for, recovered and applied as is directed in the seventh section of this act, and shall further be liable to a private action at the suit of the party injured.

Election officers may commit for riotous behaviour, &c.

11. *And be it enacted*, That for the preservation of good order, as well as for protecting the election officers from insult and personal abuse, the judge and inspectors of election, or a majority of them, are hereby authorized and empowered to commit any person or persons who shall conduct in a riotous or disorderly manner, at any election as aforesaid, and persist in such conduct, after being warned of the consequences, either to the custody of any constable of the township or the keeper of the common gaol of the county, for any term not exceeding twenty-four hours; and the said constable or gaol-keeper is hereby required to execute such order of commitment as fully and effectually as though the same had been issued by a justice of the peace of such county, under his hand and seal; and in case any judge of election, inspector, constable or gaol-keeper shall be prosecuted for any thing done or acted under this section, it shall be lawful for them or any of them to plead the general issue, and give this act and the special matter in evidence, at the trial of the cause.

Officers prosecuted, protected.

12. *And be it enacted*, That the judge of election, assessor and collector, or any person or persons acting as such, in case of their absence or disqualification, shall severally, on the first day of election, before they proceed to receive any votes, take the following oath or affirmation:

Oath of officers.

"I, A. B., do solemnly and sincerely swear (or affirm, as the case may be) that I will, during this election, faithfully and impartially execute the duties and services required of me by law, and that I will not receive, or assent to receive, the vote of any person who is not duly qualified to vote agreeably to the restrictions and provisions prescribed by law."

Which oath or affirmation they are respectively authorized and required to administer to each other, in a public manner, at the place of opening the election.

13. *And be it enacted*, That if any person shall, at any time hereafter, rob or plunder the election box, or take by stealth any tickets or other papers from the same, or change or alter the tickets therein contained, every person so offending shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding four hundred dollars, or imprisonment at hard labor not exceeding two years, or both, at the discretion of the court before whom such conviction shall be had.

Penalty for robbing the election box.

14. *And be it enacted*, That the clerks of the courts of common pleas, of the several counties of this state, shall procure, at the expense of the county, printed copies of the seventh and eleventh sections of this act, and transmit four copies thereof previous to each election to be hereafter held, with a list of nominations, to the town-clerk, whose duty it shall be to put up one copy, with each of his advertisements of the election and list of

Duty of county clerks.

1820. nominations, as prescribed by the third section of the act to which this is a supplement.

Tickets may be written or printed.

15. *And be it enacted*, That at any election to be hereafter held for representatives in the congress of the United States, or members of president and vice-president of the United States, or members of the legislative council and general assembly, sheriffs and coroners, it shall be lawful for the voters to vote by delivering to the judge of election, or either of the inspectors, a ticket, either written or printed, or partly written and partly printed.

Elections shall be by ballot.

Township clerks to provide election boxes.

16. *And be it enacted*, That all elections held by virtue of this act, or the act to which this is a supplement, or in virtue of both, shall be by ballot, and the clerks of the several townships in this state, shall, from time to time, as occasion shall require, provide and keep in good repair, at the expense of the county to which such township shall belong, one election box for each township, for the use thereof, and that each of said boxes shall be made about a foot square, and strapped with iron at each corner, so as to prevent it from being easily broken, with a lid on the top fastened with brass or iron hinges, and with three locks of different sizes and construction, having an aperture of such size only as to admit a single ticket, and a sliding spring-bolt placed on the inside, so as effectually to exclude the admission of any thing into the box during the time of adjournment, through which aperture all the ballots shall be put separately into the box; and on failure of the said clerks from time to time, as occasion shall require, to procure and keep in good repair such boxes, such clerk so failing therein, shall forfeit and pay the sum of twenty dollars, for every such neglect, to be recovered, with costs, by any person who shall prosecute for the same, one half thereof for the prosecutor, and the other half for the use of the township in which the offence shall be committed.

Acts repealed.

17. *And be it enacted*, That the fourth, eighth, eleventh and fifteenth sections of the act to which this is a supplement, and all the supplements and additional supplements to the said act, and every act and parts of acts coming within the provisions of this supplement and repugnant thereto, be, and the same are hereby repealed, saving, notwithstanding, all forfeitures and penalties which may have accrued under the same, which may be prosecuted to judgment and execution, the same as though this repealing section had not passed.

PAW. 150.
See ante 281.

AN ACT to alter and amend the act, entitled "An act concerning inns and taverns."

Passed the 1st of June, 1820.

Applicants for license, in what manner to be recommended.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That no person shall be licensed, to keep an inn and tavern, but such as shall be recommended by at least twelve reputable freeholders, of the city or township, where the said inn and tavern is

1820.

proposed to be kept, who shall certify that the person so recommended by them, is of good repute for honesty and temperance, and is known to the persons recommending, to have at least two spare beds more than are necessary for the family's use, and is well provided with house room, stabling and provender; and it shall be the duty of the presiding justice, at the time of application made, and before a license is granted, to call upon the justices present, to make known any facts or objections within their individual knowledge, if any there be, why such application should not be granted; and thereupon the court may, in their discretion, grant the license prayed for by the applicant.

2. *And be it enacted*, That from and after the passing of this act, all and every person, applying to any court authorized by law to grant license to keep an inn and tavern, shall make his or her application to the court for said purpose, on the first day of the session of said court, and the said court shall, on the first day of said session, or on some other day thereof, publicly fixed on by the said court, on the said first day, determine in open court, on said application, by granting or refusing the same; and in case the said application shall be refused by the court, it shall not be lawful for the person so refused to make application to the court for license to keep an inn and tavern, at the same place, at any time during the same session of the court.

When applications to be made and when determined.

3. *And be it enacted*, That it shall not be lawful for any person, not having a license to keep an inn and tavern, to put or keep up, on or near his or her dwelling-house, any sign or other device, usually employed to denote the keeping an inn or tavern, and every person so offending, shall forfeit and pay five dollars for every month that the same shall be so kept up, to be recovered by action of debt, with costs, by any person, who shall sue for the same, before any justice of the peace in the county where the offence shall be committed.

Signs not to be put up by persons not having license.

4. *And be it enacted*, That it shall not be lawful for any person, without license first had and obtained for that purpose, in manner aforesaid, to open an inn or tavern, or sell by retail, or cause, or knowingly permit to be sold, directly or indirectly, on or for his or her account, or for his or her benefit, any wine, gin, whiskey, cider-spirits, brandy, or other ardent spirits, or any composition, of which any of the said liquors shall form the chief ingredient, except such as are compounded and intended to be used as medicine, by less measure than one quart, or any mixed liquors, by less measure than five gallons; and in case any person shall so offend, he or she shall be indicted for the same, and on conviction thereof by due course of law, shall be deemed guilty of a misdemeanor, and fined in any sum not exceeding twenty dollars, at the discretion of the court before whom such conviction shall be had, together with the costs of prosecution: *Provided always*, That the said prosecution shall be commenced within six calendar months after the offence shall have been committed: *Provided also*, That nothing in this act shall be construed or taken to prohibit any person from selling metheglin, currant wine, cherry wine, or cider made by him, her or them.

An inn or tavern may not be opened, nor certain liquors sold without license.

Made an indictable offence.

1820.

Clerk of the county to lay before the grand jury a list of the names of all the persons licensed.

5. *And be it enacted*, That it shall be, and it is hereby made the duty of the clerks of the courts of general quarter-sessions of the peace, in the several counties of this state, at least once in every year, or oftener, if thereunto required by the grand jury, duly empaneled for any county, to make out a list of the names of all the persons within the said county, who shall have a license to keep an inn and tavern, and to lay the said list before the grand jury of said county, on the first day of their meeting.

Acts repealed.

Proviso.

6. *And be it enacted*, That the second and twenty-first sections of the act, entitled "An act concerning inns and taverns," passed the twenty-fourth day of February, one thousand seven hundred and ninety-seven; and the act, entitled "An act to alter and amend the act concerning inns and taverns," passed the twenty-seventh day of February, one thousand eight hundred and one; and the act, entitled "An act to prevent tippling houses," passed the twelfth day of February, one thousand eight hundred and fourteen; and an act, entitled "A supplement to an act entitled an act respecting inns and taverns," passed the eighteenth day of February, one thousand eight hundred and nineteen, be, and the same are hereby repealed: *Provided*, That nothing in this repealing section, shall in any way invalidate, or render ineffectual, any act or thing legally done or transacted under them, or either of them, nor to exonerate any offender against them from prosecution and punishment, but said offenders shall be liable to prosecution and punishment, for any offences committed against them, the same as though this repealing section had not been made.

PAM. 155.

AN ACT to prevent the fraudulent marking of sheep and cattle.

Passed the 2d of June, 1820.

Marking in a certain manner prohibited.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That from and after the passing of this act, no person or persons within this state, shall put or cause to be put, any artificial mark, by cutting off, or what is more usually termed cropping, both the ears of any sheep or cattle, nor shall they cut or crop either ear more than one inch from the tip end thereof, nor shall cut or half crop both the ears of any sheep or cattle, nor on either ear more than one inch from the tip end as aforesaid, nor shall he or they have or keep in his or their possession, any sheep or cattle which they shall claim as their own, marked contrary to this act, unless they were so marked before the passing of this act, except they shall make it appear they were bought in market, or of a stranger.

Penalty.

2. *And be it enacted*, That any person or persons offending against this act, on conviction thereof, shall forfeit and pay two dollars by the head, for all such sheep and cattle so by them marked or kept in their possession, to be recovered in an action of debt, with costs of suit, in any court having cognizance thereof,

one moiety to the overseers of the poor, for the use of the poor of the township where the offence shall have been committed, and the other moiety to the use of the person who shall prosecute the same to effect.

1820.

A SUPPLEMENT to the act, entitled "An act respecting conveyances," passed June seventh, one thousand seven hundred and ninety-nine; and to an act, entitled "An act to register mortgages," passed June seventh, one thousand seven hundred and ninety-nine.

PAM. 141.
See ante 458,
463.

Passed the 5th of June, 1820.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That every deed or conveyance, of or for any lands, tenements or hereditaments, to any purchaser of the same, which shall be made and executed after the first day of January, in the year of our Lord, one thousand eight hundred and twenty-one, shall be void and of no effect against a subsequent judgment-creditor or bona fide purchaser or mortgagee for a valuable consideration, not having notice thereof, unless such deed or conveyance shall be acknowledged or proved, and recorded, or lodged for that purpose with the clerk of the court of common pleas of the county in which such lands, tenements and hereditaments are situated, within fifteen days after the time of signing, sealing and delivering the same: *Provided nevertheless*, That such deed or conveyance shall, as between the parties and their heirs, be valid and operative.

How far conveyances of land are void, unless recorded.

Time of recording.

2. *And be it enacted*, That every deed of mortgage, or conveyance in the nature of a mortgage, of or for any lands, tenements or hereditaments, which shall be made and executed after the first day of January, in the year of our Lord, one thousand eight hundred and twenty-one, shall be void and of no effect against a subsequent judgment-creditor, or bona fide purchaser, or mortgagee for a valuable consideration, not having notice thereof, unless such mortgage shall be acknowledged or proved according to law, and recorded and lodged for that purpose with the clerk of the court of common pleas of the county in which such lands, tenements or hereditaments are situated, at or before the time of entering such judgment, or of recording or lodging with the clerk as aforesaid the said mortgage or conveyance to such subsequent purchaser or mortgagee: *Provided nevertheless*, That such mortgage, as between the parties and their heirs, be valid and operative.

Deeds of mortgage void in certain cases, unless recorded before judgment entered, &c.

3. *And be it enacted*, That if the party who hath executed or shall execute any deed or conveyance of lands, tenements or hereditaments, lying and being in this state, or the witnesses thereto be in some other state or territory of the United States, then the acknowledgment or proof of such deed or conveyance, made before any mayor or other chief magistrate of any city in such state or territory, duly certified under the seal of such city,

How conveyances may be acknowledged or proved, if the grantors reside in some other state in the union.

1820.

or before a judge of any superior court, or court of common pleas, of the state or territory in which such party or witnesses may be, shall be as good and effectual as if such proof or acknowledgment had been made before and certified by any one of the officers mentioned in the first section of the act respecting conveyances: *Provided*, That where the said acknowledgment or proof is made before a judge of a court of common pleas, in such state or territory, a certificate under the great seal of the state, or under the seal of the county court in which it is made, that he is such officer, shall be deemed sufficient evidence of his authority for that purpose, and be annexed to, and recorded with, such deed, acknowledgment or proof, and the acknowledgment of any deed or conveyance made by a feme covert, as prescribed in the fourth section of the aforesaid act, who shall be in any other state or territory before any such authorities or persons, certified as aforesaid, shall have the same force and effect as if taken before one of the officers mentioned in the first section of the aforesaid act.

Priority of recording.

4. *And be it enacted*, That it shall be the duty of the clerks of the courts of common pleas, in this state, to register or record deeds and mortgages, or conveyances in the nature thereof, in the order they shall receive them, but if two or more deeds, mortgages or conveyances, of or for the same lands, tenements or hereditaments, shall be offered to or come to the hands of the clerk, at one and the same time, to be recorded, then it shall be the duty of the said clerk to register or record the same according to the priority of their dates.

Commissioners for taking the acknowledgment and proof of deeds.

5. *And be it enacted*, That there shall and may be appointed by the council and general assembly of this state, in joint-meeting, proper and fit persons for each of the counties of this state, to be styled and denominated "Commissioners for taking the acknowledgments or proofs of deeds," which commissioners shall have authority to take the acknowledgment or proof of any deed or conveyance of lands, tenements or hereditaments, lying and being in this state, or of any mortgage, defeasible deed, or other conveyance in nature of a mortgage, or any other instrument of writing, executed under the hand and seal of the grantor, of any lands, tenements or hereditaments, lying and being in this state, required by the laws of this state to be acknowledged or proved; and such acknowledgment or proof, taken or made in the manner directed by the laws of this state, and certified by the commissioner before whom the acknowledgment or proof shall be made, as by law required, shall have the same force and effect and be as good and available in law as if such acknowledgment or proof had been made before one of the justices of the supreme court of this state.

Term of office, and how vacated.

6. *And be it enacted*, That the commissioners appointed as aforesaid, shall be commissioned by the governor, and hold their offices for five years; but in case any commissioner shall remove out of the township in which he shall reside at the time of his appointment, his commission shall thereupon become void. *And further*, all commissioners appointed, as aforesaid, may be removed from office by impeachment for maleconduct during the

time they shall hold the said office; and the said commissioners, and each and every of them, are hereby authorized to demand and receive the same fees as are or shall be allowed by law for like services to other persons for taking the acknowledgment or proof of deeds; and that it shall not be lawful to appoint, for any county in this state, a greater number of commissioners as aforesaid, than two for each township in said county.

1820.

Fees.

Number restricted.

7. *And be it enacted*, That every commissioner, appointed as aforesaid, shall, within two months after notice of his appointment, and before he shall proceed to perform any duty required of him by law, take and subscribe an oath or affirmation before the clerk of the county for which he shall be appointed, well and faithfully to perform the duties required of him by law, as commissioner for taking the acknowledgment and proof of deeds.

Oath of office.

8. *And be it enacted*, That from and after the first day of January, eighteen hundred and twenty-one, the officer who may take the acknowledgment of any deed or conveyance, as aforesaid, shall first make known the contents thereof to the person making such acknowledgment; and shall also be satisfied that such person is the grantor mentioned in said deed, of all which said officer shall make his certificate, in addition to the other matter required by law to be certified by him.

Manner of taking acknowledgments.

9. *And be it enacted*, That whenever lands, tenements or hereditaments, lying and being in this state, are or shall be sold and conveyed, and a mortgage is given by the purchaser or purchasers, at the same time, on the land sold, to secure the payment of the purchase money, or any part thereof, such mortgage shall be preferred to any previous judgment which may have been obtained against such purchaser or purchasers.

Mortgages preferred to judgments in certain cases.

10. *And be it enacted*, That in case it hath not already been done, the secretary of this state be authorized and directed to procure a suitable book or books, and to make and enter therein an index to the books of the record of deeds in his office, in alphabetical order, according to the priority of the time of recording, distinguishing the book in which each deed is recorded, the name of the several grantors and grantees; and in case the deed is made by the sheriff, the name of such sheriff, and the name of the defendant or defendants mentioned in the execution by virtue of which the sale has been made; and if by executors or administrators, the name of such executor or administrator and the testator or intestate, and in case of attorney or attorneys, the name of such attorney or attorneys and their constituent or constituents, and if by commissioners under a law of this state, or appointed by an order of any of the courts thereof, the name of such commissioners and the person or persons whose estate has been conveyed, for which he shall be allowed the sum of twenty-five cents for every hundred names so indexed, to be paid by the treasurer of this state, on a certificate signed by the governor or person administering the government.

Duty to be performed by the secretary of state.

11. *And be it enacted*, That in case it is not already done, the clerks of the several counties in this state be hereby autho-

1830.

Duty to be performed by the clerks of counties.

rized and directed to provide, at the expense of their respective counties, a book or books, and to make and therein to enter an index, in alphabetical order, to all the books of record of deeds in their respective offices, distinguishing the book in which each deed is recorded, which index shall contain the names of the several grantors and grantees; and in case the deed be made by a sheriff, the name of such sheriff, and the name of the defendant or defendants mentioned in the execution, by virtue of which the sale was made; and if by executors or administrators, the name of each executor or administrator and the testator or intestate; and if by attorney or attorneys, the name of such attorney or attorneys and his or their constituents; and if by commissioners under a law of this state, or appointed by an order of any of the courts of this state, the name of such commissioner and the person or persons whose estate has been conveyed; for which service such clerk shall be allowed twenty-five cents for every hundred names so indexed, to be paid by the county collector, upon performance of such services to the satisfaction of the board of chosen freeholders, certified by the director of such board.

Deeds recorded, to be indexed.

12. *And be it enacted*, That the secretary of this state, and the clerks of the several counties in this state, shall make an index of all deeds hereafter recorded in their respective offices, in the manner herein before directed.

Acts repealed.

13. *And be it enacted*, That the fifth, sixth, and tenth sections of the act, entitled "An act to register mortgages," passed the seventh day of June, one thousand seven hundred and ninety-nine; and the eighth section of the act, entitled "An act respecting conveyances," passed the seventh day of June, one thousand seven hundred and ninety-nine, be, and the same are hereby repealed from and after the first day of January, one thousand eight hundred and twenty-one; and that the act, entitled "A supplement to the act entitled an act respecting conveyances," passed the seventh day of June, one thousand seven hundred and ninety-nine, which said supplemental act was passed the twenty-sixth day of November, one thousand eight hundred and one; and the act, entitled "A supplement to the act entitled an act respecting conveyances," passed June seventh, one thousand seven hundred and ninety-nine, which supplemental act was passed the eighth day of February, one thousand eight hundred and eleven; and the act, entitled "An additional supplement to the act entitled an act respecting conveyances," passed the seventh day of June, one thousand seven hundred and ninety-nine, which said additional supplement was passed the twelfth day of February, one thousand eight hundred and thirteen; and the act, entitled "An act authorizing the appointment of commissioners for taking the acknowledgment and proof of deeds and conveyances," passed the eighth day of February, one thousand eight hundred and sixteen; and the act, entitled "An act for procuring a general index to the record of deeds," passed the eighteenth day of February, one thousand eight hundred and nineteen, be, and the same are hereby repealed: *Provided*, That nothing in this re-

pealing section shall render null, or any way invalidate or impair the effect of any act or transaction legally done or depending under them or any of them.

1820.

See act, November 2, 1820.

A SUPPLEMENT to an act, entitled "An act to incorporate societies for the promotion of learning."

PAM. 155.

See ante 154.

Passed the 6th of June, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the trustees of each and every association, heretofore incorporated under the act to which this is a supplement, and all such as shall be hereafter incorporated under said act, shall be elected annually, on the second Monday of April, of each and every year, by the members of the said association, at the usual place of meeting of said association, or such other place as the board of trustees shall from time to time order and direct; six days' notice of the time, place and purpose of the meeting shall be given by the board of trustees, by an advertisement set up in some conspicuous place in the neighborhood of said association; but vacancies happening during the year, that is, between the annual elections, by death, resignation or otherwise, may be filled by the remaining trustees, at a regular meeting of the board: *Provided*, That no person shall be admitted to vote for trustees, unless he or she shall have been duly admitted a member of said association, by a majority of the trustees, for the time being, and shall have paid to the said trustees, for the use of the association, at least eight dollars; and that a majority of the members present, at each and every annual meeting, shall choose the trustees.

Time and
place of elect-
ing trustees.

Proviso.

2. *And be it enacted*, That it shall be the duty of the board of trustees to lay before the associates, at each and every annual meeting, the state of the institution, the situation of the funds, and the accounts and transactions of the preceding year, previous to the election of trustees.

3. *And be it enacted*, That the act to which this is a supplement, and every article and clause, the third and fifth sections thereof excepted, shall extend unto and operate as an incorporating act for all library companies that now are, or shall hereafter be formed in any of the counties of this state, and which have not been already incorporated, previous to the eleventh day of November, one thousand seven hundred and ninety-nine.

4. *And be it enacted*, That the trustees, or heads of each associated library company, as aforesaid, and their successors, shall have full power and authority to make all such necessary and useful orders and regulations not inconsistent with the laws of this state, for the well ordering and governing the said library companies, and for promoting the interests thereof, as to them may seem proper: *Provided always*, That there be a majority of

May make
regulations.

1820.

the whole number of trustees present, and agreeing, in order to make valid any such order, regulation, vote or proceeding.

5. *And be it enacted*, That the third section of the act to which this is a supplement, passed the twenty-seventh day of November, one thousand seven hundred and ninety-four, and the supplement to the said act, passed the eleventh day of November, one thousand seven hundred and ninety-nine, be, and the same are hereby repealed: *Provided*, That this repeal shall not invalidate or render ineffectual, any act or acts lawfully done under them or either of them: *And provided also*, That the right or title to any property which may have been acquired by any existing corporation or association, shall not be altered or affected by this act, nor shall the time of holding annual elections, already fixed by their rules or constitution, be affected thereby.

PAM. 162.

AN ACT to provide for the publication and distribution of the laws and proceedings of the legislature of this state, and the distribution of the laws of the United States.

Passed the 7th of June, 1820.

The laws to be published, &c.

1. *BE IT ENACTED* by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall be the duty of the secretary of this state, to cause the public laws passed at the present, and every subsequent session of the legislature, to be published immediately after the passing thereof, in one or more of the public newspapers in the city of Trenton:—

Manner of printing the laws, minutes, &c.

2. *And be it enacted*, That the laws of this state, the votes and proceedings of the house of Assembly, the journals of council, and minutes of joint-meeting, shall hereafter be printed on good paper, in royal octavo form, with small pica type, in the same manner and form as the laws of the United States are now printed; and that the same be well stitched in pamphlet form.

When to be delivered to the treasurer.

3. *And be it enacted*, That the printer who now is, or hereafter may be appointed, to print the laws and proceedings of the legislature of this state, shall, within sixty days after the rising of the legislature, deliver to the treasurer of this state, as many copies of the said laws and proceedings of the legislature, for the time being, as shall be directed by law.

How distributed.

4. *And be it enacted*, That the treasurer aforesaid, shall, on receipt of the laws and proceedings aforesaid, after retaining two copies for himself, immediately cause the residue to be delivered to and distributed among the persons, and in the proportions hereinafter mentioned, that is to say: to the governor or person administering the government of this state, for himself, three copies, and also to be by him forwarded and presented to the secretary of the department of state of the United States, four copies; to the executive of each state and territory within the United States, for the use of the executives and legislatures of the respective states and territories, three copies; to each of the sena-

1820.

tors and representatives of this state, in the congress of the United States, one copy; to the president of the American antiquarian society, one copy; the remainder to be distributed by the said treasurer, each and every year hereafter, to the justices of the supreme court of this state, the attorney-general, the secretary of state, the auditor of accounts, the clerks of the council, assembly, court of chancery, and supreme court, each one copy; to the clerk of the council, for the use of council and assembly, sixty copies; and shall distribute the remainder among the several counties of this state, in the same proportion as the said counties shall contribute to the support of government, and shall transmit them, at the expense of the state, in bundles, directed to the collectors of the several counties of this state.

5. *And be it enacted*, That each and every of the said county collectors, after retaining one copy for himself, shall, at the expense of the county, forthwith transmit one set of the laws and proceedings aforesaid, to each of the following officers, that is to say: the judges of the court of common pleas, the justices of the peace, the magistrates of any corporate town in the county, the sheriff, surrogate, and clerk of the court of common pleas, and the clerk of the board of chosen freeholders, and the representatives of the county in the legislature, each one set; to each incorporated library company, one set: *Provided always*, That no more than one copy shall be delivered to any person, notwithstanding such person may hold several offices; and the remainder shall be divided among the several townships of the county, and transmitted in equal proportions to the clerk of each township, who shall, within one week after receipt of the same, after retaining one copy for the use of the township, cause the residue to be distributed among the officers of the township, giving them a preference in the following order, viz.: the assessor, collector, chosen freeholders, and overseers of the poor, one set each; and the receipts of the persons so entitled to receive the same, shall be sufficient vouchers to the said treasurer and collectors, in the settlement of their accounts, for the money by them for this purpose expended, and for a reasonable compensation for their trouble.

Manner of
distribution in
the counties.

6. *And be it enacted*, That so many of the laws of the United States, as may at any time be apportioned to this state, by the congress of the United States, shall be delivered to the treasurer of this state, to be by him distributed among the following persons, at the expense of the state, viz.: to the governor of the state, the attorney-general, the justices of the supreme court, the clerks of the courts of chancery and supreme court, the secretary of state, and the members of the legislature of this state, each one set, and shall retain one set for his own use; to the clerk of council, for the use of council, two sets; to the clerk of the assembly, for the use of the assembly, four sets; to the librarians of Princeton college, and of the two literary societies in said college, each one set; and the remainder among the several counties of this state, in proportion to their quota of state taxes, to be transmitted to the collectors of the respective counties, and by them to be

Manner of dis-
tributing the
laws of the
United States.

1820.

delivered to the following persons in the several counties; first, to the clerk of the court of common pleas, one set; secondly, to the directors or managers of every public library in the county, one set; thirdly, to the judges of the common pleas of the county, each one set; and the residue, if any there be, to be disposed of as shall be directed by the board of chosen freeholders of the county.

Penalty on collector or clerks for neglect of duty.

7. *And be it enacted*, That if any collector or clerk, shall neglect or refuse to perform any of the duties required of him by this act, he shall, for each offence, forfeit and pay the sum of ten dollars, to be sued for in any court of competent jurisdiction, by the director of the board of chosen freeholders of the county wherein he may reside, to be applied, when recovered, to the use of the county.

Acts repealed.

8. *And be it enacted*, That the act relating to the publication of the laws and proceedings of the legislature of this state, passed January thirteenth, eighteen hundred and nineteen; and the act to provide for publishing the public laws of this state, passed February fifteenth, eighteen hundred and nineteen; and the act, entitled "An act to provide for the distribution of the laws and proceedings of the legislature of this state, and the laws of the United States," passed the twenty-eighth day of February, seventeen hundred and ninety-eight; and the supplement to the act, entitled "An act to provide for the distribution of the laws and proceedings of the legislature of this state, and the laws of the United States, passed the fifth day of February, eighteen hundred and twenty, and all other acts and parts of acts, coming within the purview of this act, be, and the same are hereby repealed.

PAM. 160.

AN ACT for the preservation of sheep.

Passed the 9th of June, 1820.

Dogs taxed.

Not to extend to Sussex, see act, Nov. 16, 1820.

Town-meetings may lay an additional tax.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every person who shall keep or harbor a dog or bitch, above the age of six months, shall be taxed yearly and every year, for one dog or bitch so kept or harbored, the sum of fifty cents, and for every additional dog or bitch, above the age of six months, the sum of one dollar; which tax shall be assessed and collected by the assessor and collectors appointed for the assessing and collecting the state, county, or township tax, in the several townships of this state, in the same manner, and at the same time as other annual taxes raised for the use of the state, county, or township, shall be hereafter assessed and collected: *Provided always*, That the inhabitants of the respective townships shall have power, at their annual town-meetings, to lay any additional tax on dogs, not exceeding five dollars on each; and the same fees shall be allowed for assessing and collecting the same, as are allowed for assessing and collecting the said state, county, or township

1820.

tax; and the assessors and collectors shall be subject to the same fines and penalties, for neglect of duty, as are or shall be authorized by law for neglect of duty in assessing and collecting taxes for the use of the state, county, or township.

2. *And be it enacted*, That every inhabitant who shall refuse, or wilfully neglect to deliver in to the said assessor, when by him required, a true account of the number or age of the dog or dogs, bitch or bitches, made taxable by this act, and owned or harbored by him or her as aforesaid, he or she shall, for every such refusal or neglect, forfeit and pay the sum of two dollars and fifty cents, to be recovered, with costs, by the collector of the townships wherein the offence shall be committed, to and for the benefit of the townships.

Penalty for not delivering to the assessor a true account.

3. *And be it enacted*, That any person who shall keep or harbor any dog or bitch, shall be considered liable to the yearly tax aforesaid: *Provided also*, That it shall and may be lawful for the assessors of their respective townships, to strike off his duplicate or rate-book, the tax assessed against any person for a dog or dogs, on its being proved to the satisfaction of the assessor, by the owner thereof, that he, she or they have killed, or caused to be killed, such dog or dogs, before the delivery of the duplicate to the collector.

Persons harboring dogs liable for tax.

4. *And be it enacted*, That it shall be lawful for any person to kill any dog or bitch which may be found chasing, worrying or wounding any sheep or lamb.

5. *And be it enacted*, That the taxes collected by virtue of this act, shall be appropriated to make good any loss or losses which may be sustained by any person or persons, by the destruction or wounding of his, her or their sheep, within the township wherein said tax shall be collected, and shall be kept as a fund by the township committee, for that purpose, who shall pay all such damage so sustained within the year, in case the money so raised by said tax shall be sufficient to pay the same, and if not, then in such equitable proportions to the individuals injured, according to their respective losses, as the said fund, arising from such tax, will enable them to do, to be adjusted at the annual settlement of the accounts of said township by the township committee, and reported to the town-meeting; and in case there shall remain in the hands of the township committee a surplus of money, after paying all the damages sustained as aforesaid, it shall be in the power of the inhabitants of such township, by public vote at their annual town-meeting, to appropriate such surplus to any other township purposes, or to let the same remain in the hands of the township committee, to answer any damages, as aforesaid, which may be sustained in the next ensuing year, and so on from year to year, at the discretion of said inhabitants.

The tax appropriated.

6. *And be it enacted*, That if any dog or bitch shall be found killing, worrying or wounding any sheep or lamb, and the owner, being informed thereof, shall refuse or neglect to kill such dog or bitch, for the space of twenty-four hours from the time of receiving such information, such owner shall forfeit and pay to any per-

Dogs found wounding sheep, to be killed.

1820.

son who shall sue for the same, the sum of ten dollars, to be recovered, with costs, by action of debt, before any justice of the peace of the county, and moreover shall pay triple damages for any injury done by said dog or bitch, to sheep or lambs, after receiving such information, to the owner or owners thereof.

Damage sustained by dogs or wolves, how determined.

7. *And be it enacted*, That when any person shall sustain damage or injury, by reason of his or her sheep or lambs being killed or wounded by a dog or dogs, wolf or wolves, it shall be lawful for such person to take two respectable freeholders of the township wherein such damage was done, who are in no wise of kin to the party so calling them, to view the sheep or lambs so killed or wounded, and if it shall appear to their satisfaction, that the said sheep or lambs were killed or wounded by a dog or dogs, wolf or wolves, then the said freeholders shall make a return or certificate thereof, in writing, stating the amount of damages such person may have sustained, which shall in no case exceed five dollars for one sheep or lamb so killed or wounded, which said certificate shall entitle the person so injured to the sum stated therein, as the damage sustained, to be paid by the township committee, in conformity to the provisions made therefor in the fifth section of this act; and in case the damage, so certified, shall appear to the town committee to be excessive, it shall and may be lawful for said committee to require the facts stated and claim exhibited, to be investigated before them, upon oath or affirmation, and shall award payment accordingly: *Provided always*, That nothing herein contained shall extend to cases wherein a recovery of damages can be obtained of the owner or owners of such dog or dogs as shall have committed the injury.

Assessor to set up a list of the names of persons who have made return to him of dogs kept.

8. *And be it enacted*, That it shall be the duty of the assessors of the respective townships of this state, to set up in at least five of the most public places in their respective townships, within ten days after having taken the annual list of ratables, lists of the names of each person who shall have delivered to him an account of the dog or dogs, bitch or bitches, and the number given in by each person; and each assessor shall be entitled to receive, on settlement of his accounts, one dollar and fifty cents for the list so set up, to be paid out of the moneys collected from the tax on dogs.

Acts repealed.

9. *And be it enacted*, That the act, entitled "An act to discourage the keeping of dogs by imposing a tax on the owners or keepers thereof," passed the twenty-fourth day of May, one thousand seven hundred and eighty-seven; and the act, entitled "An act concerning dogs," passed the thirteenth day of March, one thousand eight hundred and six; and the act, entitled "An act for the preservation of sheep," passed the twenty-third day of February, one thousand eight hundred and eleven, and the supplement thereto, passed the fifth day of February, one thousand eight hundred and twelve; and the act, entitled "An additional supplement to the act for the preservation of sheep," passed February the thirteenth, one thousand eight hundred and eighteen, and all other acts and parts of acts coming in the purview of this act, be, and the same are hereby repealed: *Provided*,

That nothing in this repealing section shall impair any right or interest acquired under them, or any of them, nor exonerate any person from any penalty which he or she may have become liable to under them or any of them.

1820.

AN ACT for the preservation of clams and oysters.

P.A.M. 162.

Passed the 9th of June, 1820.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the first day of May, until the first day of September, yearly and every year, no person under pretence of taking clams or shell-fish, or under any other pretence whatsoever, shall rake on any oyster bed in this state, or gather any oysters or shells on any banks or beds within the same, and in case any person shall so do, whether oysters be taken or not, he shall, for every offence, forfeit and pay ten dollars, to be recovered, with costs, by action of debt, by any person who shall prosecute for the same, in any court of record in this state having cognizance of that sum; one moiety thereof to the use of the prosecutor, and the other moiety to the county collector, for the use of the county in which the offence was committed: *Provided*, That nothing in this section shall be so construed as to prohibit any person or persons from taking oysters from beds planted out by him or them, pursuant to this law.

The time in which oyster beds may not be raked.

Proviso.

2. *And be it enacted*, That in case any person residing in or without this state, shall at any time hereafter rake for, or gather oysters in any of the rivers, bays or waters of this state, with a dredge, or instrument so called, or shall be on board of any canoe, boat or vessel employed in raking with such implement, such person, so offending, shall forfeit and pay the sum of fifty dollars, to be recovered in the manner and for the use mentioned in the next preceding section.

Not to be raked with a dredge.

3. *And be it enacted*, That it shall be the duty of every justice of the peace, upon his own view, or the information of any person, on oath or affirmation, to issue his warrant to one or more of the constables in his county, commanding him or them to require such and so many persons as he or they deem necessary, to aid and assist him or them in apprehending every person offending against either of the preceding sections, in any of the bays, rivers or waters of this state, and forthwith to bring such offender, when apprehended, before the said justice, or any other justice of the peace of said county, to be proceeded against in the manner herein before directed.

Manner of proceeding against offenders.

4. *And be it enacted*, That if any person shall hereafter sell or offer for sale oysters in any part of this state, between the first day of May and the first day of September, such person shall, for every such offence, forfeit and pay five dollars, to be recovered and applied in manner directed in and by the first section of this act.

Time in which oysters may not be sold.

1820.

May not be gathered for the purpose of burning them, &c.

Persons not inhabitants of this state prohibited gathering, &c.

Manner of carrying the preceding section into effect.

Penalty for resisting, &c.

Oysters and clams may be planted in certain creeks, &c.

5. *And be it enacted*, That if any person shall, at any time hereafter, rake or gather oysters in any of the rivers, bays or waters of this state, for the purpose of burning or converting them into lime, or for the purpose of conveying them to any of the landings to be used in the manufactory of iron in any of the furnaces in this state, or shall land them on any bank or landing, for either of the purposes aforesaid, every person so offending shall forfeit and pay fifty dollars, for each and every offence, to be recovered and applied in manner directed by the first section of this act.

6. *And be it enacted*, That it shall not be lawful for any person, who is not at the time an actual inhabitant and resident of this state, to rake or gather clams, oysters or shells, in any of the rivers, bays or waters in this state, on board of any canoe, flat, scow, boat or other vessel, not wholly owned by some person or persons inhabitants of, and actually residing in this state, and every person who shall offend herein shall forfeit and pay ten dollars, to be recovered and applied in manner directed by the first section of this act; and shall also forfeit the canoe, flat, scow, boat or other vessel, used or employed in the commission of such offence, with all the clams, oysters, shells, clam-rakes, oyster-rakes, tongs, tackle, furniture and apparel, in and belonging to the same.

7. *And be it enacted*, That it shall be the duty of all sheriffs and constables, and may be lawful for any other person or persons, to seize and secure any such canoe, flat, scow, boat or other vessel, as aforesaid, and immediately thereupon give information thereof to two justices of the peace of the county where such seizure shall have been made, who are hereby empowered and required to meet at such time and place as they shall appoint for the trial thereof, and hear and determine the same, and in case the same shall be condemned, it shall be sold by the order and under the direction of the said justices, who, after deducting all legal costs and charges, shall pay one half of the proceeds of said sale to the collector of the county in which such offence shall have been committed, and the other half to the person who shall have seized and prosecuted the same.

8. *And be it enacted*, That if any person or persons, on board of any such canoe, flat, scow, boat or other vessel aforesaid, shall refuse and not suffer to enter the same, or resist before or after entering any of the said officers or other person or persons seizing the same, or otherwise resist them or any of them in the lawful seizing of the same, then every person so offending shall forfeit and pay the sum of thirty dollars, to be recovered and applied in manner directed by the first section of this act.

9. *And be it enacted*, That from and after the seventh day of November, one thousand eight hundred and seventeen, it hath been, and hereafter shall be lawful for any person or persons owning marsh or meadow in this state, within the boundaries of which there shall be creeks, ditches or ponds wherein oysters do or will grow, and where such creeks or ditches do not lead to any public landing, to lay or plant clams or oysters therein, for the use

1820.

and benefit of such owners, and for the preservation of which to erect a fence, hang or affix gates or locks across said creeks or ditches, to prevent any person or persons from entering the same.

The said property protected.

Proviso.

10. *And be it enacted*, That if any person be found with any craft, boat or raft above or within the aforesaid fences, gates or locks, without leave from the owner or occupant of any creek, ditch or pond, fenced, gated or locked, as aforesaid, wherein clams or oysters may be laid or planted, or shall in any way break or destroy such fence, gate or lock, he, she or they so offending, shall severally forfeit and pay, for each and every offence, the sum of fifty dollars, to be recovered by action of debt, with costs, in any court having cognizance thereof, by any person who shall prosecute for the same, one half to the use of the owner or occupant of such creek, ditch or pond, and the other half to the person who shall sue for the same: *Provided*, That nothing herein contained shall be so construed or understood as to obstruct or prevent the free navigation of any thoroughfare, creek or channel, leading from or out of any of the bays or principal waters to any other bay or principal water, or to any accustomed landing-place in this state, any thing herein before contained to the contrary notwithstanding.

Oysters to be taken in a part of Navesink river in a particular manner.

11. *And be it enacted*, That it shall not be lawful for any person or persons, to rake or take with tongs, or otherwise gather or carry away, any oysters, other than by wading in and picking up by hand the same, within the following bounds, in the river commonly called or known by the name of the North or Navesink river, laying within the county of Monmouth, and dividing the township of Shrewsbury from the township of Middletown, above a direct line from the store-house of Eseek White, on the Shrewsbury side of the river, to the dwelling-house of Thomas Layton, on the Middletown side of the river aforesaid; and in case any person or persons shall be found offending against this prohibition, he, she, or they, so offending, shall forfeit and pay for every such offence, the sum of ten dollars, to be recovered in an action of debt, with costs, before any justice of the peace in the county of Monmouth, by any person who shall sue for the same, the one half to the use of the prosecutor, and the other half to be paid to the county collector, to and for the use of the county.

Privileges allowed to owners of flats or coves in a certain part of Gloucester.

12. *And be it enacted*, That it shall and may be lawful for any person or persons owning flats or coves along the shores of the tide-waters in the county of Gloucester, between the Great-Egg-harbour and Little-Egg-harbour rivers, inclusive of the shores of so much of the said rivers as lie within the said county of Gloucester, to mark out by fixing stakes across or around the same, at the distance of two rods from each other, and of such length as to be at least two feet above the ordinary high water, and plant or lay clams, oysters or other shell-fish, within or above the same: *Provided* said stakes shall not include any natural oyster beds always covered with water, beyond low water mark: *And provided also*, it shall not be lawful to stake out, beyond the ordinary low water mark, nor injure any navigation publicly used.

Proviso.

1820.

The said privileges protected.

13. *And be it enacted*, That if any person or persons shall gather or take away any oysters or clams, above or within the line of stakes aforesaid, without permission first had and obtained from the owner or owners, occupant or occupants of the flats or coves so staked in, he, she or they so offending, shall forfeit and pay, for each offence, the sum of twenty dollars, to be recovered and applied in manner directed by the tenth section of this act, and shall moreover be liable to an action at the suit of the owner or owners, occupant or occupants, for his, her or their damages.

Acts repealed.

14. *And be it enacted*, That the act, entitled "An act for the preservation of oysters," passed the twenty-sixth day of January, one thousand seven hundred and ninety-eight, and the several supplements thereto; and the act, entitled "An act for the preservation of oysters in the province of New-Jersey," passed in the fifth year of the reign of George the first, be, and the same are hereby repealed: *Provided*, That any penalties incurred under the same acts, or any of them, may be prosecuted to judgment and execution, the same as though this repealing section had not passed.

PAN. 157.

AN ACT to facilitate entries of satisfaction on the records of judgments.

Passed the 10th of June, 1820.

Manner of making entries.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That it shall be, and it hereby is made the duty of the clerk of the supreme court, and of every inferior court of common pleas in this state, in recording judgments, to leave at the foot or bottom of the record of each and every judgment, in the book of judgments, a sufficient space for entering satisfaction of said judgment on the record, and that all satisfactions of judgments hereafter entered, whether by the directions of this act, or by the order of the court, shall be entered at the foot or bottom of the record of such judgments, or in the margin thereof, in cases where there is not sufficient space left at the foot or bottom of such judgment for entering thereof.

A party having a judgment satisfied, directed to enter satisfaction.

2. *And be it enacted*, That whenever any party, in whose favor a judgment is rendered in the supreme court, or any of the inferior courts of common pleas, in this state, shall have received satisfaction of such judgment, it shall be, and is hereby made, the duty of said party, either by himself or his attorney, forthwith to enter an acknowledgment of satisfaction upon the record of said judgment, or in case the judgment shall not have been made up and recorded, then such acknowledgment shall be entered in the minutes of the court where such judgment shall have been rendered, and it shall thereupon become the duty of the clerk of such court, as soon as the record of such judgment is entered in the judgment-book, to make the entry of satisfaction in the manner prescribed in the foregoing section, and in the following form:

Satisfaction of this judgment has been duly acknowledged by A. B., (or his attorney, as the case may be) in the minutes of this court, of the term of in the year agreeably to the act of the legislature, in such case made and provided.

1820.

3. *And be it enacted*, That whenever any party shall receive full satisfaction, as aforesaid, it shall and may be lawful for the said party to sign, seal, and deliver to the party so making satisfaction as aforesaid, or his attorney, a warrant or authority, directed to the clerk of the court wherein such judgment shall be rendered, to enter satisfaction as aforesaid, which said warrant may be as follows:

Warrant to enter satisfaction.

To the clerk of the supreme court of the state of New-Jersey, or to the clerk of the inferior court of common pleas of the county of in the state of New-Jersey, (as the case may be.)

Whereas I, A. B., heretofore, to wit: in the term of obtained final judgment in the supreme court of the state of New-Jersey, (or in the inferior court of common pleas of the county of in the state of New-Jersey, as the case may be) against C. D., for debt, and costs, (or for damages and costs, or for costs, as the case may be) as by the record thereof may appear: and whereas I have received satisfaction for the same; these are, therefore, to desire and authorize you to enter an acknowledgment of satisfaction upon the record of the said judgment, and for your so doing, this shall be your sufficient warrant and discharge in that behalf. In witness whereof, I have hereunto set my hand, and affixed my seal the day of eighteen hundred and

Signed, sealed and delivered }
in the presence of

A. B. (SEAL.)

Which said warrant or authority being acknowledged or proved, before any judge, or other officer having authority to take the acknowledgment or proof of deeds for the conveyance of land, in this state, or in case the party shall reside out of this state, the same being acknowledged or proved before any judge or justice of any supreme or superior court, or before any judge of any court of common pleas, or master in chancery, of the kingdom, state, or territory, wherein he shall reside; and after such proof or acknowledgment, such warrant or authority being delivered to the clerk to whom the same shall be directed, it shall be the duty of the said clerk, forthwith to enter satisfaction on the record of said judgment, as herein before directed, in the words following, or as nearly in conformity thereto, as can be conveniently done:

I, E. F., clerk of the supreme court of the state of New-Jersey, (or inferior court of common pleas of the county of in the state of New-Jersey, as the case may be) in virtue of a special warrant of attorney (duly acknowledged or proved, as the case may be) from A. B., in the foregoing record named, and to me directed, do hereby acknowledge that the said A. B. is satisfied of the debt and costs, (or damages and costs, or costs, as the case may be.) Dated this day of eighteen hundred and

Form of entry.

E. F., clerk.

1820.

What relations
liable to main-
tain poor per-
sons.

3. *And be it enacted*, That the father and grandfather, mother and grandmother, and the children and grandchildren, severally and respectively (of every poor, old, blind, lame and impotent person, or other poor person not able to work) being of sufficient ability, shall, at his, her or their charges and expense, relieve and maintain every such poor person as aforesaid, in such manner as the justices of the peace, at their general court of quarter-sessions, shall order and direct, under the penalty of forfeiting and paying for each and every person so ordered to be relieved, for every week they shall neglect or refuse so to maintain and relieve such poor person or persons, any sum that the said justices may direct, not exceeding two dollars and fifty cents per week.

Manner of ob-
taining relief
for poor per-
sons.

4. *And be it enacted*, That on application for relief being made to any overseer or overseers of the poor of any city, town corporate or township, by or for any poor person or persons within such city, town corporate or township, the said overseer or overseers shall thereupon convene two justices of the peace of the county in which such relief is required, who are hereby required and empowered to issue their warrant to a constable, commanding him to bring such poor person or persons before them at such time and place as they shall appoint, and the said justices shall thereupon proceed to examine every such poor person or persons upon oath or affirmation, relating to his or her last place of legal settlement, and the said overseer or overseers are hereby authorized and required to take out and serve process of subpoena when necessary, to bring before the said justices any person or persons to give evidence respecting such settlement, and the said justices, after examination of such poor persons and witnesses, if any there be, shall adjudge and determine the legal settlement of such poor person, and if the same be within the county where the application for relief is made, and believe that public relief is necessary, they shall make out an order of removal, commanding the said overseer or overseers to remove the said poor person or persons to the poor-house of the county, (where poor-houses are erected) and also to deliver the said overseer or overseers the said order of removal, together with a copy of the evidence on which the adjudication was founded, which order and copy of evidence the said overseer shall take and deliver, with the said poor person or persons, to the steward of the said poor-house, and the expense of said examination and removal shall be paid by the overseer or overseers of the township where the application for relief is made: but provided it shall appear on the examination had as aforesaid, that the legal settlement of such poor person or persons is not in the said county where the application for relief is made, in that case the said justice shall make out an order of removal or warrant to a constable, thereby commanding the removal of such poor person or persons to their place of settlement, according to the twenty-third section of the act to which this is a supplement, and transmit, with the said poor person or persons, a copy of the evidence on which the adjudication was made, and without such copy of evidence such removal shall not be deemed legal.

5. *And be it enacted*, That in all cases where any fines or forfeitures are created by law, and made payable to the overseer or overseers of the poor of a township, for the use or support of the poor, and in all cases of an estate or estates that may hereafter escheat to the use of the poor of a township, and made payable to the overseer or overseers of the poor, (in such counties where the poor are kept in county poor-houses) it shall be the duty of every overseer or overseers receiving any such moneys, to pay over the same to the trustees of such poor-house, and therewith render a statement certifying on what account such moneys have been by him or them received, a copy of which statement shall also be transmitted to one of the trustees of said poor-house, which payment and account aforesaid shall be rendered and made yearly and every year, on or before the first day of March.

1820.

Relates to fines and forfeitures where the poor are kept in county poor-houses.

6. *And be it enacted*, That the male and female children of slaves, born after the fourth day of July, eighteen hundred and four, who have not been bound out to service by trustees or overseers of the poor, according to law, shall, after the males arrive to the age of twenty-five, and the females to twenty-one years, be deemed settled in the township or place in which they were born: *Provided*, That nothing herein contained shall prevent any such male or female children of slaves, born after the said fourth day of July, eighteen hundred and four, from gaining a legal settlement in their own right, in any other township or place, in such manner as white persons might gain the same by virtue of the laws of this state: *And provided also*, That any such male or female children or slaves shall obtain a legal settlement in the city, borough, township or precinct in which such servant shall first serve, with his or her master or mistress, for the space of seven years, and if afterwards such servant shall duly serve in any other place for the space of seven full years, such servant shall obtain a legal settlement in the city, borough, township or precinct where such service was last performed, either with his or her first master or mistress, or with any other master or mistress by virtue of a legal transfer of such servant.

Relates to the settlement of the children of slaves born after July 4, 1804.

7. *And be it enacted*, That all children of slaves, born free, and who have been, or shall be bound out to service by trustees or overseers of the poor, according to law, shall obtain a settlement under any such binding, in the same manner that other persons bound by indenture would obtain the same, under the first section of the act to which this is a supplement.

May obtain a settlement by indenture.

8. *And be it enacted*, That the children of slaves, born free, and their issue shall be deemed capable of gaining settlements under the laws of this state, in like manner as other persons; and on application for the relief or removal of slaves or free negroes, or persons of color, the proceedings shall be the same as in cases of other persons who may be chargeable or likely to become chargeable.

Capable of gaining settlements in like manner as other persons.

9. *And be it enacted*, That the sixteenth and seventeenth sections of the act to which this is a supplement, and a supplement to an act, entitled "An act for the settlement and relief of the poor,"

Acts repealed.

1890.

passed the twenty-third day of November, one thousand eight hundred and one; and a supplement to an act, entitled "An act for the settlement and relief of the poor," passed the eleventh day of March, one thousand seven hundred and seventy-four, which supplement was passed the thirteenth day of February, one thousand eight hundred and sixteen, be, and the same are hereby repealed.

PAM. 160.

AN ACT concerning the estates of persons who die insolvent.

Passed the 12th of June, 1890.

How distributed.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the estate, real and personal, of a testator or intestate, who shall have died since the thirtieth day of June, seventeen hundred and ninety-nine, or shall hereafter die, in case the same shall be insufficient to pay all his or her debts, shall be distributed among his or her creditors, in proportion to the sums that shall be due to them respectively, except as hereinafter is excepted.

Suits may not be brought within six months.

2. *And be it enacted,* That to enable the executor or executors, administrator or administrators, to examine into the condition of the estate and ascertain the amount and value thereof, and the debts to be paid out of the same, no action, either at law or equity, shall be brought against such executor or executors, administrator or administrators, within six months after the decease of the testator or intestate, unless it be on suggestion of fraud or for the physician's bill during the last sickness, funeral charges and expenses, and any judgment or judgments entered of record against such decedent in his lifetime and unsatisfied, all which shall have preference and be first paid out of the personal and real estate of the testator or intestate.

Cases excepted.

Application to the court for order that creditors exhibit their demands.

3. *And be it enacted,* That when any executor or administrator shall, by application in writing, represent to the orphans' court of the proper county, on oath or affirmation, taken or made before any of the judges of said court, that the personal and real estate of the decedent is insufficient to pay the debts of the deceased, according to the best of his knowledge and belief, the said court shall thereupon direct the said executor or administrator to give public notice to the creditors of the estate, to exhibit to such executor or administrator, under oath or affirmation; their claims and demands against the estate within such time as the court shall direct and appoint, not exceeding eighteen months, nor less than six months, by setting up such notice in five of the most public places in the county, for the space of two months, and also by advertising the same for the like period in one or more of the newspapers printed in this state, as may be appointed by the said court, and such further notice, if any, as the said court shall direct.

4. *And be it enacted,* That the said executor or administrator

shall make report to the next term of the said court after the said limited time shall expire, of the several claims and demands which may be so exhibited against such estate, particularly specifying the demand and amount thereof, at the time of such report, and whether by judgment, decree, bond, note, book account, or otherwise, giving at least two months' notice of his intention to make such report, in three of the most public places in the county; and where there shall not be two months from the expiration of the said limited time and the succeeding court, the said report and notice shall be to the term after.

1820.

Report to be made to the court.

5. *And be it enacted*, That the said executor or administrator shall, at the time of making such report, exhibit, under oath or affirmation, as aforesaid, to the said court, a true and just account of the moneys, goods, chattels, rights and credits of the decedent, which have come to his knowledge, hands or possession, and shall also make out, and exhibit at the same time, an inventory of the real estate of said decedent, which may have come to his or her knowledge, and the value thereof, as near as may be, under oath or affirmation.

Manner of making report.

6. *And be it enacted*, That it shall be lawful for any creditor, or other person interested, by himself or attorney, to appear at the said term, and file exceptions to the account and exhibition of the said executor or administrator, in respect of the amount and value of the real and personal estate of the said decedent; and in like manner for the executor or administrator, or other person interested, to file exceptions against the claim or demand of any creditor, exhibited as aforesaid, or any part thereof, and the said court shall proceed to hear the proofs and allegations in the premises, at the same or any subsequent court, as may be expedient, and upon such exceptions, decree and determine in regard to said claims and demands of creditors, respectively, and on the account of such executor or administrator, in respect of the personal estate, as may be just and lawful; and in case no exception be made against any claim or demand of a creditor, as aforesaid, it shall be held and deemed as justly due; and so in like manner, the account of said executor or administrator, not excepted to, shall be allowed and held as true: *Provided*, That either party may appeal from such decree to the ordinary, within twenty days from rendering the same, and not after.

Who may file exceptions.

Proviso.

7. *And be it enacted*, That if upon the adjustment of the claims and demands of creditors, and consideration of the amount of the personal and real estate, and value thereof, it shall appear to the court that the real and personal estate is insufficient to pay the debts, and that the estate is likely to be insolvent, the said court shall so decree, and shall order and direct the said executor or administrator to proceed as if the estate was insolvent, and to make sale of the whole or any part of the real estate of the testator or intestate, from time to time, as may appear expedient, in such manner as is directed by executors and administrators to be done, in the twenty-first and twenty-second sections of the act, entitled "An act making lands liable to be sold for the payment of debts," passed the eighteenth of February, seventeen hundred

How to proceed in case the estate proves insolvent.

1820.

and ninety-nine, any thing in the twenty-fourth section of the said act to the contrary notwithstanding.

Election given, in certain cases, to proceed at law or in equity.

8. *And be it enacted*, That if any creditor, who shall have exhibited his claim or demand as aforesaid, to any executor or administrator upon the same being excepted to as aforesaid, shall at the same term to which the exception is made, elect to proceed at common law or in equity, in preference to having the same determined by the said court, such creditor shall so proceed immediately; and the sum recovered against the executor or administrator, if any, shall be the amount on which a ratable proportion shall be paid as aforesaid; and in case any executor or administrator shall elect at the said term, that the claim or demand of any creditor, so as aforesaid exhibited against the estate, shall be determined at common law or in equity, the said creditor shall proceed immediately in either court, as his case may be, and the sum recovered shall be the amount on which a ratable proportion shall be paid as aforesaid; and the court in which any such action may be brought, shall take order, that the same may be determined as speedily as possible.

Debts and claims to grow due may be exhibited.

9. *And be it enacted*, That the creditor may exhibit to the executor or administrator aforesaid, not only all debts actually due and owing, but all debts and claims to grow due in future, making in such case a reasonable rebate of interest, when interest is not accruing on the same.

Distribution of the estate.

10. *And be it enacted*, That the proceeds of the said personal and real estate of the testator or intestate, which shall come to the hands of the said executor or administrator, the preferred debts, as mentioned in the second section of this act, and the reasonable allowance which may be decreed by the court to the executor or administrator, for care and expenses, being first paid, shall be distributed to the said several creditors, by the said executor or administrator, in proportion to the sums that shall be found due to them respectively, as aforesaid, under the direction of the said court, from time to time, as may be found convenient and just; and the said court may enforce obedience to such orders and directions by attachment.

Creditor not exhibiting his claim, &c.

11. *And be it enacted*, That if any creditor shall not exhibit his claim to the executor or administrator as aforesaid, within the time limited and prescribed by the said court, such creditor shall be for ever barred from prosecuting or recovering his said demand, unless the estate shall prove sufficient after all debts exhibited and allowed are fully satisfied, or such creditor shall find some other estate not inventoried or accounted for by the executor or administrator before distribution, in which case such creditor shall receive his ratable proportion out of the same.

Actions against the executor, &c.

12. *And be it enacted*, That if any action shall be pending against said executor or administrator, at the time of the making the application, as in the third section mentioned, or any action shall be brought against such executor or administrator, after the making of the said application, the plaintiff or plaintiffs in such action may proceed to final judgment, unless the claim shall be adjust-

ed as is herein before directed, or otherwise; but no execution shall in any case issue after the making of said application; and the amount of such judgment, when recovered, shall be the sum on which the creditor shall receive his ratable proportion as aforesaid.

1820.

13. *And be it enacted*, That if it should happen that there is enough produced from such real and personal estate, to make full payment, and any residue of the said estate shall remain in the hands of the executor or administrator, after paying all the said debts and expenses, the said residue shall be divided among the heirs of the intestate, in such proportions as the said real estate would have descended, or in case of a will, as the said will directs.

Residue after the payment of debts and expenses, to be distributed.

14. *And be it enacted*, That the act, entitled "An act for the distribution of the estates of persons who die, not leaving sufficient property to pay all their just debts," passed the thirteenth of June, seventeen hundred and ninety-nine; and the act, entitled "An act concerning the estates of persons who die insolvent," passed the nineteenth day of February, eighteen hundred and nineteen; and all acts, and parts of acts, coming within the purview hereof, shall be, and the same are hereby repealed: *Provided*, That such repeal shall in no wise affect or extend to any proceedings now pending, or rights acquired under the said repealed acts.

Acts repealed.

AN ACT to prevent justices of the peace from issuing blank process.

PAM. 173.

Passed the 12th of June, 1820.

WHEREAS many abuses have taken place from the practice of some justices of the peace in this state, signing their names to blank summonses and warrants, and allowing constables or other persons to fill up the said blanks; **THEREFORE—**

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if from and after the first day of September next, any justice of the peace of this state, shall sign his name to any blank summons or warrant, and allow any constable or other person to fill up the blank or blanks in the said process, without the special direction of the said justice, and in his presence, and shall afterwards issue the said process, or suffer the same to be served, such justice shall be deemed guilty of misbehaviour in office, and on conviction thereof, shall forfeit and pay the sum of fifty dollars, to be recovered by action of debt, by any person who shall prosecute for the same, in any court having jurisdiction of the case, one half for the use of the person prosecuting, and the other half for the township in which such justice shall reside.

Issuing blank process prohibited.

Penalty.

2. *And be it enacted*, That the service of any summons or warrant, on a party named therein, which shall have been issued by

Service of such process void.

1820.

the justice as aforesaid, in blank, and afterwards filled up by the constable or other person, without the special direction of the justice, as aforesaid, shall be taken and considered to be altogether void, and any judgment or other proceeding afterwards had or taken, in consequence of such service, or founded thereupon, shall be void and of no effect.

PAM. 173.

AN ACT to provide for the distribution of the compiled and revised public laws of this state.

Passed the 13th of June, 1820.

Number of copies to be delivered to the treasurer.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That Samuel L. Southard, and Charles Ewing, esquires, be authorized and required, as soon as may be, to deliver, or cause to be delivered, to the treasurer of this state, after retaining one copy each, one thousand nine hundred and ninety-eight copies of the compiled and revised laws ordered to be printed for the use of the state.

Their distribution.

2. *And be it enacted,* That the treasurer shall, on the receipt of the laws aforesaid, after retaining one copy for himself, cause one thousand five hundred copies to be delivered to, and distributed among the persons, and in the proportions hereafter mentioned, namely: to the honorable William S. Pennington, one copy; to the governor of the state, for himself, one copy; and eighty copies, to be by him transmitted to the executives of the several states and territories within the United States, for the use of the respective states and territories; to be forwarded and presented to the secretary of the department of state of the United States, four copies; and to the president of the American antiquarian society, one copy; to the justices of the supreme court, the attorney-general, the secretary of this state, and clerk of the supreme court, each one copy; to the clerk of council, for the use of council, six copies; to the clerk of assembly, for the use of the assembly, fifteen copies; and the remainder shall be distributed among the counties of this state, in proportion as they severally contribute to the support of government; and the said treasurer shall transmit them, at the expense of the state, to the collectors of the several counties of this state.

How distributed in the county,

3. *And be it enacted,* That each and every of the said county collectors, after retaining one copy for himself, shall, at the expense of the county, transmit one copy of the laws, aforesaid, to each of the following officers: to the judges of the court of common pleas, the justices of the peace, the sheriff, clerk of the court of common pleas, and surrogate of said county, the clerk of the board of chosen freeholders, for the use of the board, and to the present representatives of the county in the state legislature, and to each incorporated library company, one copy: *Provided always,* That no more than one copy shall be delivered to any one person, notwithstanding such person may hold several offices;

and five copies shall be transmitted to the clerk of each township, who shall, within one week after the receipt of the same, retaining one copy for himself, cause the residue to be distributed among the following officers of the township, namely: the assessor, collector, township committee and overseers of the poor; and the receipts of the persons so entitled to receive the same, shall be a sufficient voucher to the said treasurer and collectors, in the settlement of their accounts, for the money by them for this purpose expended: and if there should be a surplus in any county, after the aforesaid distribution, it shall be subject to the order of the board of chosen freeholders of the county, for the use of the county.

1820.

and in the township.

4. *And be it enacted*, That at the expiration or removal from office, of any judge or clerk of the court of common pleas, justice of the peace, surrogate, sheriff, or county collector, it shall be his duty to deliver the aforesaid copy of the laws to the clerk of the county, to be deposited in his office, for the use of such person as shall be appointed to execute the said office in his place or stead, and in case of the death of any of the aforesaid officers, the said copy shall be delivered, as aforesaid, by their lawful representatives; and in case of neglect or refusal for three months, in any of the aforesaid officers, or their representatives, then it shall be the duty of the said clerk to prosecute the delinquent or delinquents, for double the value of the said copy or copies, in any court where the same may be cognizable, and recover the same, with costs of suit, for the use of the county, by action of debt, in the name of the state.

Expiration of office, or death of county officers, copies of the laws to be deposited in the clerk's office.

5. *And be it enacted*, That if any of the before recited officers of any township, who shall have received any of the aforesaid copies, shall neglect or refuse, or in case of his decease, his lawful representatives shall neglect or refuse, within one month after the expiration of his office, to deliver to the clerk of the township to which he belongs, for the use of the township, the copy by him received, it shall be the duty of the clerk of the township to prosecute and recover, in the name of the inhabitants of the township, from the delinquent, for the use of the township, double the value of the said copy, in any court where the same may be cognizable, with cost of suit, in the manner provided in the fourth section of this act.

Where to be deposited by township officers.

6. *And be it enacted*, That if any collector or clerk shall neglect or refuse to perform any of the duties required of him by this act, he shall, for each offence, forfeit and pay the sum of fifty dollars, to be sued for in any court of competent jurisdiction, by the director of the board of chosen freeholders of the county where he may reside, to be applied to the use of the county.

Penalty on collector or clerk for neglect of duty.

7. *And be it enacted*, That the residue of the said printed copies of the compiled and revised public laws, shall be retained by the said treasurer, subject to such disposition as may be made of the same by law.

Copies retained.

8. *And be it enacted*, That an act to provide for the distribution of the revised laws of this state, and to appropriate a further

Act repealed.

1820.

sum of money towards defraying the expense of the revision, passed November twenty-first, one thousand seven hundred and ninety-nine, be, and the same is hereby repealed.

PAM. 175.
See ante 689.

A SUPPLEMENT to the act constituting courts for the trial of small causes.

Passed the 13th of June, 1820.

Claims to goods levied on must be presented within ten days

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That in case any claim shall be made to any goods or chattels, under the twenty-sixth section of the act to which this is a supplement, and the said claimant or claimants shall not, within ten days, apply to a justice and have his, her or their right tried, as is prescribed in said section, the said claim shall be considered abandoned, and the constable shall proceed as if it had not been made.

Relates to the act to which this is a supplement.

2. *And be it enacted,* That so much of the sixty-third section of the said act, under the title of "Justices," in said section, as reads, "Each deposition taken under the fiftieth and fifty-first sections of this act, one dollar," shall be taken and construed to read as referring to the fifty-second and fifty-third sections of the said act; and so much of the sixty-third section, under the same title, as reads, "For issuing a commission under the fifty-third section of this act, to be paid by the party applying, one dollar," shall be taken and construed to read as referring to the fifty-fifth section of the said act; and so much of the sixty-third section, under the title "Witnesses," as reads, "For their services under the fiftieth and fifty-first sections of this act, fifty cents," shall be taken and construed as referring to the fifty-second and fifty-third sections of the said act, any thing therein expressed to the contrary notwithstanding.

Constable's fees on serving a summons on more than one defendant.

3. *And be it enacted,* That in all actions hereafter brought before any justice of the peace in this state, where the original process shall be by summons, and there being more than one defendant therein named, the constable serving the same shall be entitled to receive forty cents, for the service of the same on one defendant, and every additional defendant on whom the same shall be served, twenty cents, and make return thereon as directed in the sixth section of the act to which this is a supplement.

Number of the jury in certain cases.

4. *And be it enacted,* That so much of the nineteenth section of the act, entitled "An act constituting courts for the trial of small causes," passed on the twelfth day of February, one thousand eight hundred and eighteen, as authorizes and requires a justice of the peace to issue a venire to summon a jury of six men, and no more, if the debt or demand depending before him do not exceed the sum or value of twenty-five dollars, be, and the same is hereby repealed; but it shall nevertheless be lawful for such justice, and he is hereby required to issue such venire to summon a jury of six men, and no more, in all cases when the debt or

demand shall not exceed the sum of sixteen dollars, in the same manner as he might have done before the passing of said act, passed on the twelfth day of February, one thousand eight hundred and eighteen.

1820.

5. *And be it enacted*, That any body politic or corporate, in this state, shall and may be liable to be sued in the court for the trial of small causes, by summons, which may be served on the president, cashier or clerk of said corporation, if found, and if not found, on any of the directors or managers of the said corporation, in such manner as is by law required for serving a summons.

Corporate bodies liable to be sued,

6. *And be it enacted*, That if judgment shall be given against any body politic or corporate, by virtue of this act, the justice shall grant execution thereupon, against the goods and chattels of such body politic or corporate, which may be levied on and sold according to law.

and execution issued against their goods, &c.

7. *And be it enacted*, That so much of the sixty-third section of the act to which this is a supplement, under title "Constables," as allows constables forty cents for serving a summons when against more than one defendant, and so much of the twenty-fourth section of the said act as provides that no execution shall issue against the body of any man having a family, when the debt does not exceed the sum of ten dollars, and so much of said act as comes within the purview of this act; also, a supplement to the said act, passed the eighteenth day of February, one thousand eight hundred and nineteen, be, and the same are hereby repealed and made void.

Acts repealed.

AN ACT to repeal certain acts therein named.

Passed the 13th of June, 1820.

PAM. 177.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the act, entitled "An act to prevent persons prosecuted in the colony of New-York, for trespasses committed on Sandy-Hook, being again prosecuted in New-Jersey, on the same," passed the twenty-fifth day of September, seventeen hundred and sixty-two; and the act, entitled "An act to confirm and establish the several courts of justice within this state," passed the second day of October, seventeen hundred and seventy-six; and the fifth section of the act, entitled "An act to prevent routs, riots and tumultuous assemblies," passed the twenty-fourth day of February, seventeen hundred and ninety-seven; and the twentieth section of the act, entitled "An act prescribing certain oaths," passed the twentieth day of February, seventeen hundred and ninety-nine; and the act, entitled "An act for the relief of such part of the militia of this state as may be called into actual service," passed the nineteenth day of February, eighteen hundred and thirteen; and the act, entitled "An additional supplement to the acts relative to elections, to enable the militia or volunteers of this state,

1820.

when in the actual military service of the United States, or of this state, to exercise the rights of elections," passed the sixteenth day of February, eighteen hundred and fifteen; and the act, entitled "An act respecting forfeited estates," passed the twenty-second day of November, eighteen hundred and eighty-two, and the same are hereby repealed.

2. *And be it enacted*, That the word "thirtieth" in the seventh section of the act, entitled "An act to prevent the unlawful waste and destruction of timber in this state," passed the twenty-eighth day of February, one thousand eight hundred and twenty, be taken and read as "thirteenth," and that the word "or" next preceding the word "mesne" in the first section of the act, entitled "A supplement to an act for the relief of persons imprisoned for debt," passed the eighteenth day of March, one thousand seven hundred and ninety-five; and to an act, entitled "An act to repeal the several insolvent laws passed since the eighteenth day of March, one thousand seven hundred and ninety-five," and to revive the act, entitled "An act for the relief of persons imprisoned for debt," passed March third, one thousand eight hundred and twenty, shall be taken and read as "on," and be so printed in the said respective acts, in the compiled and revised edition of the public laws of this state.

PAM. 178.
See ante 606.

AN ACT further regulating the descent of real estates.

Passed the 13th of June, 1820.

What estate
the children
of a devisee
shall take un-
der certain
words.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That in case any lands, tenements, hereditaments or real estate, situate, lying or being in this state, shall hereafter be devised by the owner thereof to any person for life, and at the death of the person to whom the same shall so be devised for life, to go to his or her heirs, or to his or her issue, or to the heirs of his or her body, then and in such case, after the death of such devisee for life, the said lands, tenements, hereditaments or real estate, shall go to, and be vested in, the children of such devisee, equally to be divided between them as tenants in common in fee, but if there be only one child, then to that one in fee, and if any child be dead, the part which would have come to him or her, shall go to his or her issue, in like manner.

A conveyance
or devise in
fee-tail, its
operation.

2. *And be it enacted*, That from and after the passing of this act, where any conveyance or devise shall be made, whereby the grantee or devisee shall become seized in law or equity of such estate in any lands or tenements, as under the statute of the thirteenth of Edward the first, (called the statute of entails) would have been held an estate in fee-tail, every such conveyance or devise shall vest an estate for life only, in such grantee or devisee, who shall possess and have the same power over, and right in, such premises, and no other, as a tenant for life thereof would have by law; and upon the death of such grantee or devisee, the

aid lands and tenements shall go to, and be vested in, the children of such grantee or devisee, equally to be divided between them as tenants in common in fee, but if there be only one child, then to that one in fee; and if any child be dead, the part which would have come to him or her shall go to his or her issue in like manner: *Provided*, That the widow of any such grantee or devisee of such estate, shall have her dower in the premises in like manner as if the said grantee or devisee had died seized hereof in fee-simple: *And provided also*, That where any person shall marry a woman being a grantee or devisee and seized of such estate, the said husband, after the death of his said wife, shall have his curtesy in the said lands and tenements, if there be issue of the marriage, in like manner as if said wife had died seized of an estate of inheritance in fee-tail of the premises.

1820.

3. *And be it enacted*, That the second section of the act, entitled "An act to pass estates in fee, by certain devises in wills and testaments, and to limit estates in tail," passed the twenty-sixth of August, one thousand seven hundred and eighty-four; and the act, entitled "An act to explain and amend an act, entitled an act to pass estates in fee by certain devises in wills and testaments, and to limit estates in tail," passed the twenty-third of March, one thousand seven hundred and eighty-six, be, and the same are hereby repealed: *Provided always*, That nothing in this section shall affect any estate now held by devise, but the same shall descend or be held as if this section had not been passed.

Acts repealed.

Proviso.

AN ACT to empower the governor to offer a reward for the apprehension of certain offenders. P. M. 179.

Passed the 13th of June, 1820.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall and may be lawful to and for the governor or person administering the government, for the time being, to issue his proclamation for apprehending and securing any person or persons, charged, on oath or affirmation of one or more credible witness or witnesses, with having committed murder, burglary, robbery or other dangerous outrage and violence upon the person or property of any person within this state, and in such proclamation to offer such reward as the said governor, or person administering the government, may think proper, according to the nature and aggravation of the crime, not exceeding three hundred dollars, for any one offender; which reward shall be paid, on conviction of the party charged, to the person or persons entitled thereto, by the treasurer of the state, out of any public money in his hands, on a warrant or certificate, signed by the governor or person administering the government, for that purpose.

The governor authorized to offer a reward for apprehending certain offenders,

2. *And be it enacted*, That it shall and may be lawful for the governor, or person administering the government, to issue his and for their aids, &c.

1820.

proclamation, offering a reward, as aforesaid, for apprehending and securing any person or persons, charged, on oath or affirmation as aforesaid, with aiding, abetting, comforting, harboring or concealing any person or persons, who hath or have committed any of the crimes above specified and described, knowing him, her or them to be guilty thereof; which reward, on conviction of the person so charged, shall be paid in the same manner as is above directed.

May offer a reward for apprehending the unknown perpetrators of certain offences.

3. *And be it enacted*, That when any murder, burglary, robbery or other offence, as aforesaid, hath been, or shall be committed by any person or persons unknown, it shall and may be lawful for the governor or person administering the government, for the time being, on the oath or affirmation of one or more credible witness or witnesses, setting forth the fact, and that the same was perpetrated by a person or persons unknown, to issue his proclamation, offering a reward as aforesaid, for apprehending and securing the person or persons who may have committed the same, and any person or persons who may have aided, abetted, comforted, harbored or concealed him, her, them or any of them, to be in such wise guilty; which reward shall, in every case, be paid on conviction of the party offending, as in manner aforesaid.

Acts repealed.

4. *And be it enacted*, That the act, entitled "An act to empower the governor to offer a reward for the apprehension of certain offenders," passed the fifth day of March, one thousand seven hundred and ninety-five, be, and the same is hereby repealed.

FAM. 180.

AN ACT to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of this state.

Passed the 13th of June, 1820.

WHEREAS it is necessary that the power and authority of the ordinary of the state, and his surrogates, should be defined, the jurisdiction of the prerogative court regulated, and an orphans' court established, in the several counties of this state; THEREFORE—

Authority of the ordinary, how far to extend.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That from and after the passing of this act, the authority of the ordinary shall extend only to the granting of probates of wills, letters of administration, letters of guardianship, and to the hearing and finally determining of all disputes that may arise thereon.

Prerogative court when and where to be held.

2. *And be it enacted*, That for the more regular hearing and determination of all causes cognizable before the ordinary, he shall, at stated periods, hold a prerogative court, at the times and places appointed, or that hereafter shall be appointed by him for holding the court of chancery, when he shall hear and finally de-

ermine all causes that shall come before him, either directly or by appeal from any of his surrogates, or the orphans' court hereinafter established.

1820.

3. *And be it enacted*, That the secretary of the state, for the time being, shall be register of the prerogative court, and besides the business heretofore done by him, shall attend the sitting of the court at the stated times, to register the decrees and proceedings of the court.

Secretary of state to be register.

4. *And be it enacted*, That the ordinary shall hereafter appoint but one deputy or surrogate in each county of the state, and that the power and authority of such surrogate shall be limited to the county for which he shall be appointed.

One surrogate in each county.

5. *And be it enacted*, That the judges of the court of common pleas, in the several counties of this state, or any three of them, shall be, and they hereby are, constituted and appointed judges of a court of record, to be held four times a year, in the same week that the courts of general quarter-sessions of the peace are, or hereafter shall be held, and also at such other times as the said judges shall see occasion to hold the same; which court shall be styled "The Orphans' Court," and that the surrogate of the county shall be clerk or register of said court.

Orphans' court established.

6. *And be it enacted*, That the orphans' court shall have full power and authority to hear and determine all disputes and controversies whatsoever, respecting the existence of wills, the fairness of inventories, the right of administration and guardianship, and the allowance of the accounts of executors, administrators, guardians or trustees, audited and stated by the surrogate, as hereinafter directed; and also, all other matters and things hereinafter submitted to their determination, and to award process, and cause to come before them, all and every person and persons interested or necessary to give evidence in any such cause, or who, as executors, administrators, guardians, trustees or otherwise, are or shall be entrusted with, or in anywise accountable for, any lands, tenements, goods, chattels or estate, belonging, or which shall belong, to any orphan or person under age; and the ordinary of the state, his register and surrogates, are hereby directed and required, upon application made for that purpose, and payment of reasonable fees, to transmit into the orphans' courts, true copies or duplicates of all bonds, inventories, accounts and proceedings whatsoever, now or hereafter remaining or being in their respective offices or possession, which do or shall relate to the estates of orphans, or any of them.

Jurisdiction of the orphans' court.

7. *And be it enacted*, That the said orphans' court shall have full power and authority, where letters of administration or guardianship shall have been granted upon insufficient security, to order and direct all such administrators or guardians, to give such further or other security to the ordinary, by bonds in the usual form, as the said court, after hearing the objection of creditors, or persons concerned, shall approve of; and if it appears, on examination, that any administrator or guardian hath embezzled, wasted, or misapplied all or any part of the decedent's estate, or shall

Orphans' court may order administrators or guardians to give further security, and may revoke letters of administration or guardianship.

1820.

neglect or refuse to give bonds, with sureties as aforesaid, or the security taken shall have been insufficient, then, and in every such case, the said court shall forthwith, by sentence, revoke or repeal the letters of administration or guardianship, and thereupon the surrogate shall grant letters of administration or guardianship, to such person or persons having right thereunto, as will give bonds in manner and form aforesaid, who may have actions of trover, detinue, or on the case, for such goods or chattels as came to the possession of the former administrators or guardians, and shall be detained, wasted, embezzled, withheld or misapplied by any of them, and no satisfaction made for the same.

In what cases the orphans' court may order executors, guardians and trustees to give security.

8. *And be it enacted*, That when any complaint is made to any one of the judges of the orphans' court, that an executrix having a minor or minors of her own, or being concerned for others, is married, or like to be espoused to another husband, without securing the minors' portions or estates, or that an executor, guardian or other person having the care and trust of minors' estates, is likely to prove insolvent, or shall refuse or neglect to exhibit true and perfect inventories, or give full and just accounts of the said estates come to their hands or knowledge, then and in every such case, the said judge is hereby required, forthwith to call an orphans' court, which court shall order and direct all and every such executrix, executor, guardian or trustee, to give security to the orphans or minors, by mortgage or bonds, in such sums and with such sureties as the said court shall think reasonable, conditioned for the performance of their respective trusts; and for the true payment or delivery, to and for the use and behoof of such orphan or orphans as they are concerned for, or such as shall legally represent them, the legacies, portions, shares and dividends of estates, real and personal, belonging to such orphans or minors, so far as they have assets, as also for their maintenance and education, as the said court shall judge fit for the benefit and best advantage of such orphans.

May order an administrator or guardian, on application of a surety, to render an account, and proceedings thereon.

9. *And be it enacted*, That where the surety, in any bond given by an administrator or guardian, for the faithful execution of his office, shall discover or believe that such administrator or guardian is wasting or mismanaging the estate, whereby the said surety may become liable to loss or damage, the said orphans' court, upon application of such surety, and upon sufficient reason therefor, may order and direct every such administrator or guardian, to render an account of his or her administration or guardianship, to such surety, and if it shall appear that such administrator or guardian has embezzled, wasted, misapplied or mismanaged the estate, in every such case the said court shall direct the said administrator or guardian, to give separate security to his or her surety, for the true payment of the balance remaining in his or her hands, to creditors, representatives, or the ward of such guardian, and on neglect or refusal, it shall be lawful for the said court to revoke the letters of administration or guardianship, and grant the same to such person or persons having right thereto, as will give sufficient bonds, in the usual form, to the ordinary, and in such case it shall be the duty of the said newly appointed

Administrator or guardian, immediately to bring an action on the case against such removed administrator or guardian, and hold him or her to bail, and in such action to recover the amount of all moneys, assets, rents, issues and profits received by such removed administrator or guardian, and not applied according to law, as well as all damages done or committed by such administrator or guardian, in respect of the estate in his or her hands.

1820.

10. *And be it enacted*, That whenever there are two or more acting executors, guardians or administrators, the orphans' court shall or may, from time to time, on application of any one or more of them, upon sufficient reasons given to the court therefor, order and direct every such executor, guardian or administrator, to account with his or her co-executor or co-executors, administrator or administrators, guardian or guardians, for all assets which have severally come to the hand of such executor, guardian or administrator, and whenever the court shall judge it necessary, shall compel each executor, guardian or administrator, to give separate security to his co-executor or co-executors, administrator or administrators, guardian or guardians, for the true payment of the balance remaining in his or her hands, to wards, creditors, legatees or representatives of the testator or intestate, and on neglect or refusal in giving such account or security, it shall and may be lawful for the same court to authorize such co-executor or co-executors, administrator or administrators, guardian or guardians, to sue for such assets in the hands of such executor or executors, administrator or administrators, guardian or guardians so neglecting or refusing as aforesaid.

May direct an executor, administrator or guardian to account with, and give security to his co-executor, &c.

11. *And be it enacted*, That executors, administrators, trustees or guardians, may, by leave and direction of the orphans' court, put out their minors' money to interest, upon such security, and for such a length of time, as the said court shall allow of, and if such security so taken, bona fide and without fraud, shall happen to prove insufficient, it shall be the minors' loss, and it shall be the duty of executors, administrators, trustees and guardians, in cases where the minors' estates may be materially benefited thereby, to make application to the orphans' court for such leave and direction, and in case they shall neglect so to do, they shall be accountable for the interest that might have been made thereby: but if no persons who may be willing to take the said money at interest, giving such security, can be found by the said executors, administrators, trustees or guardians, nor by any other friend or friends of such minors, then the said executors, administrators, trustees or guardians, shall, in such cases, be accountable for the principal money only, until it can be put out at interest, as aforesaid: *Provided nevertheless*, That in any case where executors, administrators, trustees or guardians shall make use of the money of minors, which shall come to their hands, they shall be accountable not only for the principal but for the interest thereon.

The money of minors may be put out to interest, under the direction of the court.

12. *And be it enacted*, That where any person hath died, or shall die intestate, seized in fee-simple of any lands, tenements, or hereditaments, leaving two or more children, or other heirs, any of whom being under the age of twenty-one years, the or-

The real estates of intestates may be divided in certain cases.

1820.

neglect or refuse to give bonds, with sureties as aforesaid, or the security taken shall have been insufficient, then, and in every such case, the said court shall forthwith, by sentence, revoke or repeal the letters of administration or guardianship, and thereupon the surrogate shall grant letters of administration or guardianship, to such person or persons having right thereunto, as will give bonds in manner and form aforesaid, who may have actions of trover, detinue, or on the case, for such goods or chattels as came to the possession of the former administrators or guardians, and shall be detained, wasted, embezzled, withheld or misapplied by any of them, and no satisfaction made for the same.

In what cases the orphans' court may order executors, guardians and trustees to give security.

8. *And be it enacted*, That when any complaint is made to any one of the judges of the orphans' court, that an executrix having a minor or minors of her own, or being concerned for others, is married, or like to be espoused to another husband, without securing the minors' portions or estates, or that an executor, guardian or other person having the care and trust of minors' estates, is likely to prove insolvent, or shall refuse or neglect to exhibit true and perfect inventories, or give full and just accounts of the said estates come to their hands or knowledge, then and in every such case, the said judge is hereby required, forthwith to call an orphans' court, which court shall order and direct all and every such executrix, executor, guardian or trustee, to give security to the orphans or minors, by mortgage or bonds, in such sums and with such sureties as the said court shall think reasonable, conditioned for the performance of their respective trusts; and for the true payment or delivery, to and for the use and behoof of such orphan or orphans as they are concerned for, or such as shall legally represent them, the legacies, portions, shares and dividends of estates, real and personal, belonging to such orphans or minors, so far as they have assets, as also for their maintenance and education, as the said court shall judge fit for the benefit and best advantage of such orphans.

May order an administrator or guardian, on application of a surety, to render an account, and proceedings thereon.

9. *And be it enacted*, That where the surety, in any bond given by an administrator or guardian, for the faithful execution of his office, shall discover or believe that such administrator or guardian is wasting or mismanaging the estate, whereby the said surety may become liable to loss or damage, the said orphans' court, upon application of such surety, and upon sufficient reason therefor, may order and direct every such administrator or guardian, to render an account of his or her administration or guardianship, to such surety, and if it shall appear that such administrator or guardian has embezzled, wasted, misapplied or mismanaged the estate, in every such case the said court shall direct the said administrator or guardian, to give separate security to his or her surety, for the true payment of the balance remaining in his or her hands, to creditors, representatives, or the ward of such guardian, and on neglect or refusal, it shall be lawful for the said court to revoke the letters of administration or guardianship, and grant the same to such person or persons having right thereto, as will give sufficient bonds, in the usual form, to the ordinary, and in such case it shall be the duty of the said newly appointed

administrator or guardian, immediately to bring an action on the case against such removed administrator or guardian, and hold him or her to bail, and in such action to recover the amount of all moneys, assets, rents, issues and profits received by such removed administrator or guardian, and not applied according to law, as well as all damages done or committed by such administrator or guardian, in respect of the estate in his or her hands.

1820.

10. *And be it enacted*, That whenever there are two or more acting executors, guardians or administrators, the orphans' court shall or may, from time to time, on application of any one or more of them, upon sufficient reasons given to the court therefor, order and direct every such executor, guardian or administrator, to account with his or her co-executor or co-executors, administrator or administrators, guardian or guardians, for all assets which have severally come to the hand of such executor, guardian or administrator, and whenever the court shall judge it necessary, shall compel each executor, guardian or administrator, to give separate security to his co-executor or co-executors, administrator or administrators, guardian or guardians, for the true payment of the balance remaining in his or her hands, to wards, creditors, legatees or representatives of the testator or intestate, and on neglect or refusal in giving such account or security, it shall and may be lawful for the same court to authorize such co-executor or co-executors, administrator or administrators, guardian or guardians, to sue for such assets in the hands of such executor or executors, administrator or administrators, guardian or guardians so neglecting or refusing as aforesaid.

May direct an executor, administrator or guardian to account with, and give security to his co-executor, &c.

11. *And be it enacted*, That executors, administrators, trustees or guardians, may, by leave and direction of the orphans' court, put out their minors' money to interest, upon such security, and for such a length of time, as the said court shall allow of, and if such security so taken, bona fide and without fraud, shall happen to prove insufficient, it shall be the minors' loss, and it shall be the duty of executors, administrators, trustees and guardians, in cases where the minors' estates may be materially benefited thereby, to make application to the orphans' court for such leave and direction, and in case they shall neglect so to do, they shall be accountable for the interest that might have been made thereby: but if no persons who may be willing to take the said money at interest, giving such security, can be found by the said executors, administrators, trustees or guardians, nor by any other friend or friends of such minors, then the said executors, administrators, trustees or guardians, shall, in such cases, be accountable for the principal money only, until it can be put out at interest, as aforesaid: *Provided nevertheless*, That in any case where executors, administrators, trustees or guardians shall make use of the money of minors, which shall come to their hands, they shall be accountable not only for the principal but for the interest thereon.

The money of minors may be put out to interest, under the direction of the court.

12. *And be it enacted*, That where any person hath died, or shall die intestate, seized in fee-simple of any lands, tenements, or hereditaments, leaving two or more children, or other heirs, any of whom being under the age of twenty-one years, the or-

The real estates of intestates may be divided in certain cases.

1830.

shall be charged with said damage, and have a share proportionably less in value than the other heirs or devisees who have done no waste or damage.

Manner of proceeding in case a division cannot be made without great prejudice to the owners.

19. *And be it enacted*, That wherever commissioners, appointed in any of the cases mentioned in this act to divide real estate, shall be of opinion that the tract or tracts of land or real estate or are so circumstanced, that a partition thereof cannot be made without great prejudice to the owners of the same, they may proceed as is directed in such case by the act, entitled "An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common," and by an act, entitled "An act to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of this state," passed the seventh February, eighteen hundred and sixteen; and the fees of the commissioners in such case shall be the same as is allowed by this act to commissioners for dividing lands: *Provided*, That such fees and expenses shall not bar any claim which may be made by such commissioners for services which may be performed under the fifth and eighth sections of said act.

In what case a creditor may apply to the orphans' court to direct a sale of real property.

20. *And be it enacted*, That when any creditor shall have obtained judgment against an executor or administrator, and the execution issued on the same shall remain unsatisfied in whole or in part, for defect of personal estate to be levied on and sold, and there is real estate, it shall be lawful for the creditor or his legal representative, if the executor or administrator, being thereto required, shall neglect or refuse to obtain a sale thereof, according to law, for the space of six months after being so required, to apply to the orphans' court of the proper county, to order such sale to be made; and the said court, upon due notice given to said executor or administrator, of such application, shall examine the circumstances of the case; and if it appears that the said debt, or any part thereof, is unpaid, and the personal estate deficient as aforesaid, and no sufficient cause being shewn to the contrary, the said court may make such order to shew cause as is mentioned in the nineteenth section of the act, entitled "An act making lands liable to be sold for the payment of debts," passed eighteenth of February, seventeen hundred and ninety-nine; and such further proceedings shall be had as is prescribed in the same act in relation to the sale of real estate, where the personal estate is insufficient to pay debts.

Surrogates to take the depositions to wills, inventories, administrations, &c.

Disputes relative to the same, when and how to be settled.

21. *And be it enacted*, That the surrogate of each county shall take the depositions to wills, administrations, inventories and administration bonds, in case of intestacy, and issue thereon letters testamentary and of administration; which several letters shall be in the form herein after mentioned; but in all cases whatsoever, where doubts arise on the face of a will, or a caveat is put in against proving a will, and wherever disputes happen respecting the existence of a will, the fairness of an inventory, or the right of administration, the surrogate shall issue citations to all persons concerned, to appear at the next orphans' court to be held in and for the county; which citations shall be served at

and shall be recorded in the clerk's office in each of the counties where the lands lie, for which the said surrogate-general and register of the prerogative court, commissioners and clerks, shall be entitled to the same fees as are allowed, by this act, to the orphans' court, commissioners and surrogate, for similar services.

1820.

15. *And be it enacted*, That where any person hath died, or shall die, seized of any lands, tenements or hereditaments, leaving a legal will and testament, devising real estate to two or more devisees, situate in two or more counties, and not ascertaining the metes and bounds of each devisee's share, any of whom being under the age of twenty-one years, and their shares remaining undivided, or any such devisee shall die, leaving any heir under the age of twenty-one years, entitled to the share or a part of the share of such devisee so dying, and no division shall have been made among the said devisees, upon application made by the said devisees, or any of them, or any person claiming under them, or any of them, or duly authorized by them, to the said surrogate-general, he shall and may order and direct a division to be made of such real estate, agreeably to the said last will and testament, by three disinterested persons, commissioners, appointed by the said surrogate-general; and the proceedings on such application shall be in like manner, in all respects, as is prescribed in the foregoing section, and have the same force and effect, and the same fees be allowed.

Cases where he is authorized to direct a division among devisees.

16. *And be it enacted*, That the persons appointed by the orphans' court, or by the surrogate-general, to make partition in any of the cases aforesaid, shall, before they enter upon the duties of their appointment, take an oath or affirmation, to make a fair and just partition of such real estate, without partiality, favor or affection; which oath or affirmation may be administered by any judge of the orphans' court, surrogate or justice of the peace of the county or counties in which the said real estate is situate, or by the said surrogate-general.

Persons appointed to make partition of lands, to take an oath.

17. *And be it enacted*, That the necessary costs and expenses which shall arise under an order of the orphans' court or surrogate-general, in any of the cases aforesaid, shall be assessed by the said court or surrogate-general, upon each share, in proportion to the value divided to him or her, and may be recovered by a warrant from the said court or surrogate-general, directing distress and sale to be made of so much timber, wood or herbage, or other property belonging to such devisee or heir, as may be found on the part divided to him or her, as will be sufficient to pay the costs and expenses aforesaid, and costs of such distress and sale.

Expense of division, how assessed and recovered.

18. *And be it enacted*, That on a division made in any of the cases aforesaid, if any devisee or heir as aforesaid, or any person claiming under him or her, hath, after the death of the testator or intestate and before the division, cut off or made use of any timber, or committed any waste or destruction on the premises, the commissioners appointed to make the division shall estimate the damage done by such heir or devisee, or person claiming under him or her, and divide the premises so that such heir or devisee

In making a division, damage committed to be estimated.

1820.

And the said probate of wills and letters of administration shall have the same validity and effect as probate of wills and letters of administration issued by the register of the prerogative office, in the name of the ordinary or surrogate-general, with the seal of office affixed.

Surrogates to make returns to the register.

24. *And be it enacted*, That it shall be the duty of every surrogate, on the first Mondays of February, May, August and November, in each year, to transmit to the register of the prerogative court, all wills and inventories proved by him, and a return of all letters of administration granted during the preceding three months, to be filed in the said register's office.

To file administration bonds &c.

25. *And be it enacted*, That every surrogate shall carefully file all administration and guardianship bonds by him taken, and all other instruments of writing required by law in conducting the business of his office, or which were heretofore used to be filed in the prerogative office.

The ordinary may direct guardianship bonds to be prosecuted.

26. *And be it enacted*, That it shall and may be lawful for the ordinary or surrogate-general, to cause any guardianship bond to be prosecuted in any court of record, at the request and expense of any person aggrieved by the said bond having become forfeited, and the moneys recovered upon such bond shall be applied towards making good the damages sustained by the not performing the condition thereof, in such manner as the ordinary or surrogate-general shall by his sentence or decree direct.

Orphans' court to admit guardians.

27. *And be it enacted*, That the powers and duties formerly exercised and performed by the ordinary, relative to the admission of guardians, for persons under the age of twenty-one years, shall hereafter be exercised and performed by the orphans' court of the county in which the minor applying for a guardian may reside, or shall have real or personal estate, subject, however, to an appeal to the prerogative court, and the letters of guardianship shall be issued under the direction of the orphans' court, by the surrogate of the county in which the application shall be made, which letters shall be in the following form :

Form of letters of guardianship.

I, surrogate of the county of do certify on the day of the orphans' court of the county of admitted of as guardian of the person and property of being a minor under the age of . Witness my hand and seal of office, &c.

Provided, That nothing in this act shall be construed to prevent the ordinary or surrogate-general, in person, from granting probates of wills, letters of administration and letters of guardianship, from the prerogative office, in cases where a convenience will arise from doing the same.

When, how, and to whom letters of guardianship may be granted.

28. *And be it enacted*, That where an orphan is of the age of fourteen years or upwards, letters of guardianship shall be granted, on petition to the orphans' court, signed by such orphan in presence of the surrogate, and on the guardian or guardians first entering into a bond to the governor or ordinary of the state, with good security, in a sufficient sum, for the faithful execution of his, her or their office; but where an orphan is under the age

1820.

of fourteen years, the mother, or next of kin, of full age, and where there are several relations in equal degree of kindred, any one, giving due notice to the rest, may apply to the orphans' court for the guardianship of such orphan, who, upon inquiry into the circumstances of the case, may admit one or more of them, or a stranger willing to accept the trust, at their discretion, to be guardian or guardians of such orphan, until he or she attains the age of fourteen years, or other guardian or guardians be appointed in his stead, such guardian or guardians, giving good security by bond as aforesaid, as the said court shall direct, and until the said orphan, after arriving at the age of fourteen, shall choose another guardian or guardians, the person or persons so first appointed shall remain the lawful guardian or guardians of such orphan, under the said first letters of guardianship, and the bond given thereon shall continue in full force; but where the orphan, after arriving to the age of fourteen years, shall choose any other person or persons to be guardian or guardians, letters of guardianship shall be applied for, as before directed, and all proceedings thereon be had accordingly.

29. *And be it enacted*, That every surrogate, before he enters upon the execution of the duties of his office, shall enter into bond to the state of New-Jersey, in the sum of two thousand dollars, with at least two good and sufficient securities, being freeholders of the county for which such surrogate is appointed, to be approved of by two of the judges of the inferior court of common pleas of said county, which bond, with the condition thereof, shall be in the form hereinafter mentioned, and shall also take and subscribe the following oath, before one of the judges of the inferior court of common pleas aforesaid:

Surrogates to give bond and take oath.

I, being appointed surrogate of the county of do solemnly swear, (or affirm, as the case may be) that I will well, truly, faithfully and impartially, execute the office of surrogate of the said county, agreeably to law, according to the best of my skill and understanding. So help me God.

Form of oath.

Which oath or affirmation shall, by the judge before whom the same is taken, be delivered or safely transmitted to the secretary of this state, together with the bond aforesaid, to be filed among the public papers of his office; and the bond to be entered into, as aforesaid, shall be in the following form:

Know all men by these presents, that we, of the county of in the state of New-Jersey, are held and firmly bound unto the said state in the sum of two thousand dollars, to be paid to the said state, to which payment well and truly to be made and done, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the day of in the year of our Lord, one thousand eight hundred and . The condition of this obligation is such, that if the above bounden shall well and truly execute the office of surrogate of the county of and in all things touching and concerning the said office shall well and truly, faithfully and impartially, execute and perform the same

Form of bond.

1820.

Surrogates to state the accounts of executors, &c. and report the same.

In what manner errors are to be corrected.

Accounts of guardians and trustees to be audited and settled in like manner.

Executors, &c. exhibiting their accounts, may be examined on oath.

Allowance of their commissions.

according to law, as well with respect to all persons whatsoever concerned, as to the said state of New-Jersey, and at the expiration of his said office, shall deliver the seal and all the books, records and papers remaining in said office or appertaining thereto, to his successor in office, then the above obligation to be void, otherwise to be and remain in full force and virtue.

30. *And be it enacted*, That the surrogate shall audit and state the accounts of executors and administrators exhibited to him, and report the same to the orphans' court, at the next sitting thereafter, the executor, in case of a will, or the administrator, in case of intestacy, giving at least two months' notice of his intention in five of the most public places in the county, as near as may be to the place of residence of the parties concerned, or some of them, where such account is to be allowed, which court, on due proof of notice as aforesaid, and no exception being made to the report of the surrogate, shall decree an allowance of the account as stated; but if any person or persons, interested in the settlement of said account, shall, by himself or attorney, appear and make exceptions to the report, the court shall either proceed to hear the proofs and allegations, and correct or amend any mistake or errors that may happen in the account as reported, or refer the same to auditors, who shall examine and restate the account, after hearing parties and witnesses, and make report to the next or some subsequent court, for confirmation and allowance as aforesaid: *Provided always*, That in all cases where it shall appear, that the executor or administrator hath not had sufficient assets in hand, of the testator or intestate, to satisfy all just debts and expenses, the court shall not proceed to decree an allowance of the account, until the next sitting after the report is made; and the accounts of guardians or trustees shall be audited and stated by the surrogate, and reported to, and finally settled and allowed by, the orphans' court, in manner aforesaid; but in cases of trustees and guardians, the surrogate shall issue citations to all persons concerned, to appear at the said orphans' court, which citations shall be served at least ten days before the sitting of the court; and the said court shall, upon application of an orphan or other person interested, from time to time order and direct the guardians to account, as aforesaid, for all moneys, goods and chattels they shall receive, and for the rents, issues and profits of any real estate in their possession, belonging to their wards.

31. *And be it enacted*, That it shall be lawful for the court to whom any account is reported for allowance, as aforesaid, or for the auditors to whom an account is referred, as aforesaid, at the instance of any party interested in the same, or by their own proper authority, to examine any executor, administrator, guardian or trustee exhibiting such account, on oath or affirmation, touching the truth and fairness of the same, or any part or item thereof; and the allowance of commissions to executors, administrators, guardians or trustees, shall be made with reference to their actual pains, trouble and risk, in settling such estate, rather than in respect to the quantum of estate; and where any difference arises between executors, administrators, guardians or trustees, in re-

gard to the proportion of commissions between them, the orphans' court shall determine the same, having regard to their respective services.

1820.

32. *And be it enacted*, That the sentence or decree of the orphans' court, on the final settlement and allowance of the accounts of executors, administrators, guardians or trustees, shall be conclusive upon all parties, and shall exonerate and for ever discharge every such executor, administrator, guardian or trustee, from all demands of creditors, legatees or others, beyond the amount of such settlement, except for assets or moneys which may come to hand after settlement as aforesaid, excepting also in cases where a party applying for a re-settlement, shall prove some fraud or mistake therein, to the satisfaction of the said orphans' court.

Decree of the court, in the settlement of accounts, conclusive, except &c.

33. *And be it enacted*, That every person duly cited or summoned to appear at any of the said orphans' courts, ten days before the time appointed for appearance, who shall make default, shall be liable to attachment for contempt, and the said courts are hereby authorized and empowered to compel obedience to their process, orders and sentences, by imprisonment of body or distress and sale of lands and goods, as fully and amply as any other court of record in the state, and all final sentences or decrees of the orphans' courts, in the several counties of this state, where no appeal is given to the prerogative court, shall be subject to removal by certiorari into the supreme court: *Provided always*, That such certiorari be applied for by either of the parties, within ninety days after such final sentence or decree shall be made, and not afterwards.

Persons summoned to appear at court, and neglecting to attend, how punishable.

Certain decrees may be removed into the supreme court.

34. *And be it enacted*, That the sheriff and constables of the county shall be, and they hereby are, severally declared to be officers of the orphans' court, and shall attend the same as such, and serve all process and orders of the court or judges, directed to them, or any of them.

Sheriff and constables officers of the orphans' court.

35. *And be it enacted*, That if it shall happen that an orphans' court shall not be held at the regular term or terms of said court, by reason of the non-attendance of a sufficient number of judges, the business and proceedings pending in said court and process returnable thereto, shall be considered continuing from term to term, until a regular court shall be held.

Court not held for want of judges, business pending continued.

36. *And be it enacted*, That the clerk of the orphans' court shall draw bills of costs on all litigated suits in said court, and present the same to the court, who shall adjudge and direct which of the parties shall pay the same, and examine and tax the said bill agreeably to the fees allowed by law, which bill of costs shall be filed by the surrogate, who is hereby authorized, if the same is not paid, to issue an execution against the goods and chattels, lands and tenements, of the party adjudged to pay the same, and the costs, when paid or levied, shall be received by the surrogate, who shall pay to the court, sheriff and cryer, each their fees, as the same shall be taxed, and the residue to the persons entitled thereto, and for issuing the said execution the surrogate shall be

Bills of costs, by whom drawn and taxed.

Manner of recovery.

1820.

entitled to fifty cents, and the execution, before the same is delivered to the sheriff, shall be recorded by the clerk of the county, in the book by him kept for recording executions.

Surrogate to keep up, in his office, a list of fees, &c.

37. *And be it enacted*, That the surrogate shall cause to be affixed, and at all times kept up in his office, in some conspicuous place, a true list of all fees which may be lawfully demanded by him, as well in his capacity of clerk of the orphans' court as of surrogate of the county, and if he shall neglect to put up and keep in view such list of fees, or shall take other or greater fees than by law allowed, or shall take fees for services not performed, he shall, for every such offence, forfeit and pay the sum of thirty dollars, to be recovered in an action of debt, with costs of suit, before any court having cognizance thereof, by the party aggrieved.

Receipts and discharges given to the executor, &c., to be recorded by the surrogate.

38. *And be it enacted*, That it shall be lawful for every executor, administrator or guardian, who hath settled, or shall settle his or her account before the orphans' court, and who hath, or shall hereafter pay, any legacy or legacies, distributive share or shares, or sums of money, to any person or persons entitled by law to receive the same, his, her or their executors or administrators, to produce the receipts and discharges therefor, to the surrogate of the county in which letters testamentary, or of administration or guardianship have been or shall be granted, and the said surrogate shall immediately record the same in a book to be by him kept for that purpose: *Provided*, That the same be first proved and acknowledged, in the manner that deeds of conveyance of land are by law required to be proved and acknowledged, which proof or acknowledgment shall be recorded with such receipts or discharges, and the said surrogate shall endorse on such receipts and discharges, the book and page in which the same is recorded, with the time of recording the same, and sign his name thereto, and the said record, or a copy thereof, under the hand and seal of office of the surrogate, shall be received in evidence in any court of record in this state, if it shall be made appear to the satisfaction of said court, that the original receipt or discharge hath been lost, or that it is not in the power of the party offering the copy in evidence, to produce the same, and the surrogates of the several counties of this state, shall procure, at the expense of the county, a good bound book, in which they shall record such receipts and discharges, and be entitled to receive ten cents for recording each receipt or discharge.

How proved.

How special orphans' courts are to be appointed, and where held.

39. *And be it enacted*, That any special orphans' court, to be held in vacation, excepting in cases directed by the eighth section of this act, shall be appointed by the judges at a regular term, in open court, and be held at the place in the county, where the said court by law holds its regular terms.

Surrogate not to act as attorney &c. in certain courts.

40. *And be it enacted*, That no surrogate shall be allowed to appear or act as attorney, proctor or counsel; in the orphans' court of any of the counties of this state, and also that no surrogate of any county, being a judge of the court of common pleas of such county, shall sit as a judge of the orphans' court, on the hearing of any cause pending before said court.

41. *And be it enacted*, That upon the death, removal, or expiration of the office of surrogate, the minutes, papers, writings, documents and books of, and belonging to, such office, shall be delivered to his successor in office, on oath or affirmation of the preceding surrogate, or in case of his death, on the oath or affirmation of his executors or administrators, and if such surrogate, or the executors or administrators of a deceased surrogate, shall refuse or neglect to deliver the same on oath or affirmation, as aforesaid, being demanded by the successor in office, then every such person shall forfeit and pay five hundred dollars, to be recovered, with costs, by action of debt, in the name of the county collector, for the use of the state.

1820.

Books and papers to be delivered over to the successor, on oath.

42. *And be it enacted*, That the transcript of any will or testament, registered or recorded in the prerogative office of this state, duly certified by the register of the said office to be a true transcript, shall be received in evidence in any court of this state, and shall be as good and effectual in law, as if the books in which the same are registered or recorded, were then and there produced and proved.

Transcripts of wills, certified by the register, to be received in evidence.

43. *And be it enacted*, That the judges, surrogates, and other officers of the orphans' court, shall be entitled to demand and receive, for the services hereinafter mentioned, the fees thereunto annexed, and no more, and that a sheet or folio shall contain one hundred words.

Fees of the officers of the orphans' court.

Fees to be divided among the judges who are present in court when the service is performed.

The first motion in every cause, (but no case to be deemed a cause in court, unless there be adverse parties to the same)

fifty cents.

Every rule in a cause

twenty cents.

The trial and argument of every cause

fifty cents.

Every judgment and decree,

eighty cents.

Every appointment of auditors, guardians, trustees or commissioners

eighty cents.

Taxing every bill of costs

fifty cents.

Fees of surrogate and clerk of the orphans' court.

For drawing and taking deposition on will, and inventory

one dollar thirty-three cents.

Engrossing a last will and testament, each sheet twelve cents.

Recording proof

sixty cents.

Recording a last will and testament, each sheet

eight cents.

Granting probate

one dollar.

Engrossing probate

eight cents.

Recording probate

twelve cents.

In taking depositions to codicils

sixty-two and a half cents.

Recording proof

sixty cents.

Recording and engrossing codicil, the same as will.

1820.

Fees to be received by the surrogate, for services directed by law to be performed by the register of the prerogative court, and to be paid over to him.

For recording the name of each testator, the year in which the will was proved, and filing the will twenty-five cents.

Recording the name of each intestate, where administration hath been granted, and the year when granted twelve cents.

Filing every inventory twelve cents.

Surrogate's fees.

Drawing administration bond, and taking deposition thereon one dollar thirty-three cents.

Granting letters of administration one dollar.

Recording ditto twelve cents.

Filing administration bond ten cents.

Recording inventory, each sheet eight cents.

Drawing bond and petition for guardianship one dollar thirty-three cents.

Reading do. do. ten cents.

Filing do. do. ten cents.

Granting letters of guardianship one dollar.

Recording do. twelve cents.

Entering rule of court on appointment of guardian twenty cents.

Recording inventories, made by guardians, each sheet eight cents.

Drawing petition, stating a list of debts and credits on application for the sale of real estate, entering rule, and making copies one dollar fifty-five cents.

Exhibiting proofs of advertising rule to shew cause, entering decree, copies thereof, and receiving, filing, and recording report of sales four dollars twenty cents.

For advertising the rule of court, when done by the surrogate one dollar.

For services enjoined by the act concerning contracts of real estate, made by testators and intestates, in their lifetime, the same fees as allowed for the sale of land.

Drawing petition, reading, filing and recording decree, appointing commissioners for the division of real estate, and a certified copy of such decree three dollars forty cents.

Recording report of commissioners, each sheet eight cents.

Recording drafts, for each and every course three cents.

Drawing petition on application for rule to limit time to creditor's demand, entering the rule, advertising, entering the decree, making the rule absolute, and a certified copy of the decree four dollars twenty cents.

Drawing every citation or other process thirty cents.

Sealing the same fourteen cents.

Entering every action eight cents.

Entering the return of a writ ten cents.

Entering every rule or order of court ten cents.

Copy of such rules or order eight cents.

Searching the records twelve cents.

Swearing each witness	six cents.	1820.
Reading every petition or other writing given in evidence	ten cents.	
Filing every citation, exception, or other paper	eight cents.	
Entering every discontinuance	ten cents.	
Entering every judgment or decree	ten cents.	
Entering and filing appeal	twenty cents.	
Copies of citations, exceptions, records, and other papers, each sheet	eight cents.	
Seal and certificate	twenty-five cents.	
Depositions taken in court, each sheet	twelve cents.	
Engrossing copy, when required	eight cents.	
Recording certified copy of proceedings in cases of lunacy, transmitted to the court, each sheet	eight cents.	
Transmitting bond of guardianship, in the above cases, or of trustees' bonds to the register's office	twelve cents.	
Recording discharges taken by executors and administrators on a final settlement, each sheet	eight cents.	
For auditing and stating the account of executors, administrators, guardians, or trustees, and reporting the same to the court, such fees as the court shall think reasonable.		

Fees of sheriff.

Serving citation or other process	one dollar fifty cents.
Returning every writ	twelve cents.
Mileage, the same as allowed in serving writs issued out of the court of common pleas.	

Fees of commissioners to divide land.

Each commissioner one dollar fifty cents per diem, for every day employed in the service, together with all actual expenses for surveying, chain-bearing, assistants, and other necessary charges.

Crier's fees.

Making proclamation on application for the fulfilment of contracts	eight cents.
Swearing a witness	six cents.

44. *And be it enacted*, That the act, entitled "An act to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of this state," passed the sixteenth day of December, one thousand seven hundred and eighty-four; and the act, entitled "A supplement to an act entitled an act to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of this state," passed the twenty-second day of March, one thousand seven hundred and eighty-six; and the act, entitled "An act to revive the orphans' court, and for other purposes therein mentioned," passed the twentieth day of November, one thousand seven hundred and ninety; and the act, entitled "An act concerning surrogates, and declaring what exemptions of

Acts repealed.

1820.

Fees to be received by the surrogate, for services directed by law to be performed by the register of the prerogative court, and to be paid over to him.

For recording the name of each testator, the year in which the will was proved, and filing the will twenty-five cents.

Recording the name of each intestate, where administration hath been granted, and the year when granted twelve cents.

Filing every inventory twelve cents.

Surrogate's fees.

Drawing administration bond, and taking deposition thereon one dollar thirty-three cents.

Granting letters of administration one dollar.

Recording ditto twelve cents.

Filing administration bond ten cents.

Recording inventory, each sheet eight cents.

Drawing bond and petition for guardianship one dollar thirty-three cents.

Reading do. do. ten cents.

Filing do. do. ten cents.

Granting letters of guardianship one dollar.

Recording do. twelve cents.

Entering rule of court on appointment of guardian twenty cents.

Recording inventories, made by guardians, each sheet eight cents.

Drawing petition, stating a list of debts and credits on application for the sale of real estate, entering rule, and making copies one dollar fifty-five cents.

Exhibiting proofs of advertising rule to shew cause, entering decree, copies thereof, and receiving, filing, and recording report of sales four dollars twenty cents.

For advertising the rule of court, when done by the surrogate one dollar.

For services enjoined by the act concerning contracts of real estate, made by testators and intestates, in their lifetime, the same fees as allowed for the sale of land.

Drawing petition, reading, filing and recording decree, appointing commissioners for the division of real estate, and a certified copy of such decree three dollars forty cents.

Recording report of commissioners, each sheet eight cents.

Recording drafts, for each and every course three cents.

Drawing petition on application for rule to limit time to creditor's demand, entering the rule, advertising, entering the decree, making the rule absolute, and a certified copy of the decree four dollars twenty cents.

Drawing every citation or other process thirty cents.

Sealing the same fourteen cents.

Entering every action eight cents.

Entering the return of a writ ten cents.

Entering every rule or order of court ten cents.

Copy of such rules or order eight cents.

Searching the records twelve cents.

Swearing each witness	six cents.	1820.
Reading every petition or other writing given in evidence	ten cents.	
Filing every citation, exception, or other paper	eight cents.	
Entering every discontinuance	ten cents.	
Entering every judgment or decree	ten cents.	
Entering and filing appeal	twenty cents.	
Copies of citations, exceptions, records, and other papers, each sheet	eight cents.	
Seal and certificate	twenty-five cents.	
Depositions taken in court, each sheet	twelve cents.	
Engrossing copy, when required	eight cents.	
Recording certified copy of proceedings in cases of lunacy, transmitted to the court, each sheet	eight cents.	
Transmitting bond of guardianship, in the above cases, or of trustees' bonds to the register's office	twelve cents.	
Recording discharges taken by executors and administrators on a final settlement, each sheet	eight cents.	
For auditing and stating the account of executors, administrators, guardians, or trustees, and reporting the same to the court, such fees as the court shall think reasonable.		

Fees of sheriff.

Serving citation or other process	one dollar fifty cents.
Returning every writ	twelve cents.
Mileage, the same as allowed in serving writs issued out of the court of common pleas.	

Fees of commissioners to divide land.

Each commissioner one dollar fifty cents per diem, for every day employed in the service, together with all actual expenses for surveying, chain-bearing, assistants, and other necessary charges.

Cryer's fees.

Making proclamation on application for the fulfilment of contracts	eight cents.
Swearing a witness	six cents.

44. *And be it enacted*, That the act, entitled "An act to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of this state," passed the sixteenth day of December, one thousand seven hundred and eighty-four; and the act, entitled "A supplement to an act entitled an act to ascertain the power and authority of the ordinary and his surrogates, to regulate the jurisdiction of the prerogative court, and to establish an orphans' court in the several counties of this state," passed the twenty-second day of March, one thousand seven hundred and eighty-six; and the act, entitled "An act to revive the orphans' court, and for other purposes therein mentioned," passed the twentieth day of November, one thousand seven hundred and ninety; and the act, entitled "An act concerning surrogates, and declaring what exemptions of

Acts repealed.

1820.

wills and testaments shall be holden and received as good evidence," passed the seventh day of June, one thousand seven hundred and ninety-nine; and the act, entitled "An act concerning the surrogates in the several counties of this state," passed the eighteenth day of March, one thousand seven hundred and ninety-six, and the supplement thereto, passed the sixth day of March, one thousand seven hundred and ninety-seven; and the act, entitled "An act relative to the probate of wills, granting letters of administration and guardianship," passed the ninth day of November, one thousand eight hundred and three; and the act, entitled "An act relative to the mode of dividing real estates of intestates, situate in more counties than one," passed the sixth day of March, one thousand eight hundred and six; and the act, entitled "A supplement to the act concerning executors, and the administration and distribution of intestates' estates," passed the second day of March, one thousand seven hundred and ninety-five, which supplemental act was passed the fifth day of February, one thousand eight hundred and twelve; and the act, entitled "An act relative to the division of real estates of intestates," passed the sixth day of February, one thousand eight hundred and eighteen; and an act, entitled "An act to regulate fees of the judges, surrogates, clerks, and other officers of the orphans' court," passed the eighteenth day of February, one thousand eight hundred and nineteen, be, and the same are hereby repealed: *Provided nevertheless*, That nothing contained in this repealing section shall destroy, or any way impair any right acquired under the acts so repealed, nor invalidate or make void any proceedings legally had or done under the same.

See act concerning surrogate's office.

P. A. M. 208.
See ante 747.

AN ACT relative to commissioners for taking the acknowledgment and proof of deeds and conveyances.

Passed the 2d of November, 1820.

Former act explained.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That nothing in the repealing section of the act, entitled "A supplement to an act entitled an act respecting conveyances," passed June seventh, one thousand seven hundred and ninety-nine; and to an act, entitled "An act to register mortgages," passed June seventh, one thousand seven hundred and ninety-nine, which said supplemental act was passed the fifth day of June, one thousand eight hundred and twenty, shall be so construed, as to make void the appointment, or in any way affect the power of any commissioner appointed under the act passed the eighth of February, one thousand eight hundred and sixteen, or to render null, or in any way to invalidate or impair any act or proceeding of such commissioner, done or had by virtue of his appointment.

A further supplement to the act, entitled "An act for the punishment of crimes," passed the eighteenth day of March, one thousand seven hundred and ninety-six.

1820.

PAM. 203.
See ante 244.

Passed the 3d of November, 1820.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That when any slave shall hereafter be convicted of manslaughter, arson, burglary, rape or robbery, or of an assault and battery, with intent to commit murder, arson, burglary, rape, or robbery, or of a misdemeanor in poisoning, or attempting to poison, and so to endanger the life of any person whatsoever, and shall have judgment of imprisonment for the same, it shall be lawful for the governor of this state, at any time during the said imprisonment, by writing sealed with the great seal, to authorize and empower the owner of such slave to send him or her out of this state, and of the United States; and to direct the officer in whose custody such slave may be, to deliver him or her to such owner, for that purpose, accordingly: *Provided*, That such owner, before he shall obtain such authority, shall enter into bond to this state, with one or more surety or sureties, to be approved of by the governor, and filed in the secretary's office, in the penal sum of four hundred dollars; conditioned that such slave shall be sent so out of this state and of the United States, within ten days after such delivery by the said officer, and shall never return to this state without lawful permission: *And provided also*, That such owner, before the delivery of such slave by such officer, shall pay all the costs of the prosecution, imprisonment and maintenance of such slave, up to the time of such delivery.

Condemned criminal may be sent out of United States, &c.

2. *And be it enacted*, That the fifth and sixth sections of the act, entitled "A supplement to the act entitled an act for the punishment of crimes," passed the thirty-first day of March, one thousand eight hundred and twenty, be, and the same are hereby repealed.

AN ACT to repeal an act, entitled "A supplement to an act entitled an act for the relief of persons imprisoned for debt," passed the eighteenth day of March, one thousand seven hundred and ninety-five; and to an act, entitled "An act to repeal the several insolvent laws, passed since the eighteenth day of March, one thousand seven hundred and ninety-five;" and to revive the act, entitled "An act for the relief of persons imprisoned for debt."

PAM. 204.

Passed the 3d of November, 1820.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the act, entitled "A supplement to an act entitled an act for the relief of persons imprisoned for debt," passed the eighteenth day of March, one thousand seven hundred and ninety-five; and to an act, entitled "An act to repeal the several insol-

1820.

vent laws passed since the eighteenth day of March, one thousand seven hundred and ninety-five; and to revive the act, entitled "An act for the relief of persons imprisoned for debt," passed the third day of March, one thousand eight hundred and twenty, be, and the same is hereby repealed.

2. *And be it enacted*, That in all cases where an inventory and bond shall have been given, agreeably to the provisions of the first section of the act hereby repealed, the same shall be valid; and all persons who have given such inventory and bond, shall be entitled to the benefit, and subject to the provisions of the said act, to all intents and purposes, as if this repealing act had not been passed.

PAM. 205.

AN ACT concerning the boundaries and jurisdiction of this state in the bay of Delaware.

Passed the 7th of November, 1820.

Commissioners to be appointed, &c.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the governor be, and he hereby is, authorized, empowered and directed to appoint three commissioners on the part of this state, who shall be entitled to a reasonable compensation, to meet commissioners appointed by the competent authority of the state of Delaware, should the state of Delaware think proper to appoint such commissioners; which said commissioners of the state of New-Jersey and of the state of Delaware, when so met, shall have full power and authority to make and conclude an agreement between the said states of New-Jersey and Delaware, defining their respective boundaries, jurisdiction, rights to islands, subaqueous soil, fisheries and products of the river and bay of Delaware, southeasterly of the circular boundary between the states of Delaware and Pennsylvania.

2. *And be it enacted*, That the agreement so made by the commissioners, shall not be binding on the state of New-Jersey, until ratified and confirmed by the legislatures of the states of New-Jersey and Delaware, respectively.

3. *And be it enacted*, That the governor of this state transmit to the governor of the state of Delaware, a copy of this act, and request him to communicate it to the legislature of that state.

PAM. 205.
See ante 420.

A further supplement to the act, entitled "An act making lands liable to be sold for the payment of debts," passed the eighteenth of February, seventeen hundred and ninety-nine.

Passed the 9th of November, 1820.

Application for order to orphans' court, &c.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That on any application hereafter made by the executor or ad-

Administrator of any testator or person dying intestate, to the orphans' court of any county in this state, for an order to shew cause, agreeably to the nineteenth section of the act to which this is a supplement, why so much of the said testator or intestate's real estate shall not be sold as will be sufficient to pay his debts, or the residue thereof, as the case may require, it shall be lawful for the said court to fix upon any day for the said hearing, not less than two months from the time of granting the order, any thing in the said nineteenth section to the contrary notwithstanding.

1820.

No day for hearing to be fixed under two months.

A further supplement to an act, entitled "An act making provision for carrying into effect the act for the punishment of crimes," passed February fifteenth, one thousand seven hundred and ninety-eight.

PAM. 206.
See ante 325.

Passed the 11th of November, 1820.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That at the first joint-meeting after the accounts of the state-prison are settled, three suitable persons shall be chosen as inspectors of the state-prison, who shall continue in office until the next session of the legislature, and until others are chosen in their stead; and at the first joint-meeting which shall happen after every annual settlement of the accounts of the state-prison, the inspectors shall be re-elected or others chosen in their stead; and if any vacancy shall happen by the death, removal, resignation, refusal to act, or other inability of any of the inspectors, in the recess of the legislature, it shall and may be lawful for the person administering the government to appoint a person or persons to fill the vacancy.

Vacancies,
how filled.

2. And be it enacted, That the tenth section of the act, entitled "A supplement to an act, entitled an act making provision for carrying into effect the act for the punishment of crimes," passed February fifteenth, one thousand seven hundred and ninety-eight, which said supplement was passed on the thirtieth day of May, one thousand eight hundred and twenty, be, and the same is hereby repealed.

Section repealed.

AN ACT to repeal two certain acts therein named.

PAM. 206.

Passed the 14th of November, 1820.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the act, entitled "An act for the more effectual administration of justice," passed February the second, eighteen hundred and eighteen, and the supplement thereto, passed the fourteenth of the same month, and every section and clause contained in the said act, be, and the same are hereby repealed: Provided, That nothing herein contained shall be so construed as to affect any judgment or process issued under or by virtue of the above re cited acts.

1820.

PAM. 207.

AN ACT to suspend the sentence of death, in certain cases, until after the meeting of the governor and council.

Passed the 16th of November, 1820.

Governor may
suspend sen-
tence of death,
&c.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That from and after the passing of this act, it shall and may be lawful for the governor, or person administering the government, by and with the advice of his privy council, upon application and reasonable grounds to him shewn, to suspend the execution of the sentence of death of any criminal hereafter to be sentenced in any of the courts of criminal jurisdiction of this state, and to grant a reprieve from such sentence, until the rising or adjournment of the next meeting thereafter of the governor and council of this state.

2. *And be it enacted,* That in any case when a reprieve shall be granted as aforesaid, and a pardon shall not be granted to the offender from the sentence of death, at the next sitting of the legislature after such reprieve, it shall be lawful, and is hereby made the duty of the governor and council to appoint a day for the execution of such criminal, and give notice thereof to the sheriff of the county in which the criminal aforesaid was tried, convicted and sentenced, who, upon the receipt of such notice and time therein set forth, shall, and he is hereby commanded to put the sentence aforesaid in execution, any thing in any law to the contrary notwithstanding.

PAM. 208.
See ante 754.

A SUPPLEMENT to the act, entitled "An act for the preservation of sheep."

Passed the 16th of November, 1820.

Not to extend
to Sussex.

BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That the act, entitled "An act for the preservation of sheep," passed the ninth day of June, one thousand eight hundred and twenty, shall not extend to, or in any manner affect, the county of Sussex.

PAM. 206.
See ante 629.

A SUPPLEMENT to the act, entitled "An act constituting courts for the trial of small causes," passed the twelfth day of February, one thousand eight hundred and eighteen.

Passed the 17th of November, 1820.

Appeal may be
made to the
court of com-
mon pleas.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That from any judgment which may hereafter be obtained before any justice of the peace, in any of the said courts for the trial of small causes, upon the verdict of a jury, or upon the report of referees, either party may appeal to the court of common pleas

of the county, within the same time, in the same manner, and upon the same terms as in other cases, where an appeal is granted.

1820.

2. *And be it enacted*, That when such judgment shall have been rendered upon the verdict of a jury, the court of common pleas, to which such appeal shall be made, shall, before they proceed to hear and determine the same, amend the process, proceeding, verdict and judgment, in all things which by the act, entitled "An act respecting amendments and jeofails," are amendable on writs of error, after verdict in other courts; and if it should be inconvenient, actually to make such amendments, then every thing so amendable, shall be taken and considered as amended, and proceeding shall be had thereupon, as if the same had been actually done.

Said court to amend the process, &c.

3. *And be it enacted*, That when such judgment shall have been rendered upon the verdict of a jury, as aforesaid, the court of common pleas, to which such appeal shall be made, shall have power, after amending, or taking the same as amended, as aforesaid, to inquire of the regularity, lawfulness, and justice of such verdict and judgment, as well by the transcript of the justice's docket, which may have been sent up, as by all other lawful means which can make the matter manifest, and upon such inquiry, either to affirm the said verdict and judgment, or to set the same aside, and award a new trial, for the same causes and upon the same principles, as verdicts and judgments are set aside and new trials awarded in such court in other cases; that where such new trial shall be awarded, it shall and may be lawful for the court to permit any amendment to be made in the state of demand, plea, or other proceedings before them, upon such terms as they may deem proper, so that a trial may be had, and a judgment be rendered upon the merits and justice of the case; and such new trial shall be had before the same court of common pleas, by another jury, if either party shall demand a jury, and if not, then by the judges themselves, without a jury; that when such jury shall be demanded, it shall be returned by the sheriff, either immediately, or at such future time as the said court shall direct, and that by the order of the court, and without writ; and that upon such trial, whether the same shall be had by a jury, or by the judgment without a jury, the same evidence shall be admitted, as is admissible upon appeals in other cases, and no other, unless such new trial shall have been awarded upon the discovery of new evidence, since the trial before the justice, and in that case, such evidence newly discovered, shall be admitted upon the trial of such appeal.

May affirm or set aside verdict and judgment, and award new trial, &c.

4. *And be it enacted*, That if such judgment shall have been rendered upon the report of referees, the court of common pleas, to which such appeal shall be made, shall have power, in like manner, to inquire of such report of referees, and the judgment thereupon, and either to affirm or set aside the same, for the same causes, and upon the same principles, as reports of referees are set aside in such court in other cases, and to award a trial before themselves, if need be, in the same manner as is directed in the preceding section.

Judgment on report of referees susceptible of similar process.

1820.

Time in which trial may be had, extended to thirty days, &c.

When commenced, no judgment of nonsuit allowed, &c.

No judgment, &c., to be removed by certiorari into the supreme court, &c.

Acts repealed

5. *And be it enacted*, That the time within which the trial shall be had, in causes instituted in the said courts, for the trial of small causes, shall not be limited to fifteen days, as heretofore, but shall be extended to thirty days, from the return of the original process; and that when such trial shall once be commenced, there shall be no judgment of nonsuit whatsoever, but the trial shall be carried on to a close, and judgment final, upon the merits, be rendered thereupon.

6. *And be it enacted*, That no judgment, hereafter to be rendered, in any of the said courts for the trial of small causes, from which an appeal is given to the court of common pleas, by this act, or the act to which this is a supplement, shall be removed into the supreme court by certiorari, or otherwise, for the correction of any supposed error therein; but the party thinking himself aggrieved, shall have relief upon the appeal only, and that both as to matter of law and matter of fact.

7. *And be it enacted*, That all acts and parts of acts, inconsistent with the provisions of this act, be, and the same are hereby repealed.

PAN. 210.

AN ACT relative to elections for representatives in congress, and electors of president and vice-president.

Passed the 17th of November, 1820.

Clerk's compensation.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That from and after the passing of this act, the clerks of the several counties of this state, for their services at every election of representatives in congress, and electors of president and vice-president of the United States, in receiving nominations, transmitting the same to the governor, transmitting the nominations to the township clerks, and receiving the return of votes, and transmitting the same by public mail, or otherwise, to the governor of this state, or person administering the government, shall be allowed the sum of six dollars.

Paid by collector.

Proviso.

2. *And be it enacted*, That the sum to be allowed as aforesaid, shall be paid to the respective persons entitled thereto, by the collector of the county where such services have been performed: *Provided always*, That whenever an election shall be held for electors of president and vice-president, and representatives in congress, at the same time, the compensation aforesaid, shall be allowed but for one election.

3. *And be it enacted*, That whenever an election for the representatives in the congress of the United States, on the part of this state, shall take place, pursuant to law, to be holden at the same time with the annual election for the choice of members of the state legislature, sheriff and coroners, the officers conducting the said elections, shall receive compensation as for one election only; but in all cases, the clerks of the respective townships shall be entitled to receive the additional sum of fifty cents, for their extra services in advertising both elections.

4. *And be it enacted*, That if the copies of tickets containing the nominations of candidates for electors of president and vice-president, and of candidates to represent this state, in the house of representatives of the United States, shall not be received from the clerks of any of the counties of this state, by the governor, or person administering the government, within ten days after the day prescribed by law, for making the said nominations, in the respective counties; or if the certified lists of votes, given for electors of president and vice-president, and of representatives of this state, in the congress of the United States, shall not be received from the clerks of any of the counties of this state, by the governor, or person administering the government, within seven days after the day prescribed by law for the casting up of the votes, making a list thereof, and certifying the same, by the clerks of the respective counties in this state, it shall be the duty of the governor, forthwith to send express, to the clerk of the county or counties, from which such tickets of nominations or certified lists of votes have not been received, and to procure the same at the expense of the state; and if in any of the counties of this state, no nominations for congress, or electors, shall be made, it shall, notwithstanding, be the duty of the clerk of such county to certify the fact to the governor, or person administering the government, within the time prescribed for transmitting the tickets of nominations.

1820.

In case returns are not received in time, the duty of governor, &c.

5. *And be it enacted*, That if it should so happen, that any of the electors of a president and vice-president, duly elected and commissioned, as is required by the "Act directing the time and mode of electing electors of the president and vice-president of the United States, and representatives in congress, on the part of this state," passed December the third, eighteen hundred and seven, should fail to attend at the state-house in Trenton, by the hour of three in the afternoon of the day which the congress of the United States hath appointed, or shall appoint, for the purpose of executing the duties and services required of said electors, by the constitution of the United States, it shall and may be lawful for the governor, or person administering the government, to appoint and commission a suitable person or persons, in place of the person or persons so failing to attend, who shall perform the same services, and receive the same compensation, as electors of a president and vice-president, duly chosen in the mode prescribed by law.

How vacancies filled.

6. *And be it enacted*, That the act, entitled "An act fixing the compensation of the county clerks, for their services at elections for representatives in congress, and electors of president and vice-president, passed February the twelfth, eighteen hundred and sixteen, and the supplement to said act, passed June the sixth, eighteen hundred and twenty, be, and the same is hereby repealed.

Acts repealed.

1820.

PAM. 211.

A SUPPLEMENT to the act, entitled "An act for the better relief and employment of the poor in the county of Salem," passed March the twelfth, one thousand seven hundred and ninety-six.

Passed the 19th of November, 1820.

Time of meeting.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That hereafter, the annual meeting of the trustees of the poor, of the county of Salem, shall be held on the third Monday in May.

2. *And be it enacted*, That hereafter, the trustees of the poor of the county of Salem, shall appoint the steward of the said poor-house, at their meeting in February preceding their annual meeting, any thing in the act to which this is a supplement to the contrary notwithstanding.

PAM. 207.

A SUPPLEMENT to an act, entitled "An act relative to the supreme and circuit courts."

Passed the 20th of November, 1820.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That the justices of the supreme court of this state, shall henceforth so arrange the several circuits in the state that no justice shall hold the circuit in the same county two terms in succession, unless in the opinion of the court there be a necessity therefor.

AN ACT for encouraging the growth and preservation of oysters in Manasquan river, in the township of Howell, in the county of Monmouth.

Passed the 20th of November, 1820.

On what condition oysters may be planted, &c.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall and may be lawful for any person or persons, being owners of land on each side of and adjoining Manasquan river, to mark out by chain and compass, from some permanent monument on the fast land, one acre of the bed of said river, wherever he or they may choose the same, at right angles with the line of their lands, and stake the same as hereinafter directed; and after such owner or owners have marked out one acre, that then any citizens or inhabitants of this state may appropriate to his, her, or their sole and exclusive use, for the purposes of planting oysters therein, the bed of the river Manasquan, in the township of Howell, county of Monmouth, from low water mark to the extent of twenty rods in said river, by driving stakes, at suitable and proper distances, not less than five rods apart, of such length as to be at least two feet above ordi-

nary high water mark, and after the same is so enclosed, staked and designated, to lay or plant oysters within such enclosure, and to have, hold, possess, and enjoy the same, or to sell and dispose thereof, for and during the limitation of this act: *Provided always*, That it shall not be lawful for any person to obstruct or injure the navigation of the said river, or any fishery or fisheries therein, in so doing, or for any one person to stake, enclose, or designate a greater quantity of the bed of the said river than one acre, or to stake or enclose any part thereof, which may have been previously staked, planted or enclosed, in manner aforesaid, by any other person or persons.

1820.

Proviso.

2. *And be it enacted*, That if any person or persons shall enter on such enclosure, without the leave or consent of the owner or owners thereof, and injure the same, or commit any trespass thereon, he, she, or they, so trespassing, shall be liable to the party injured, for all damages, to be recovered in an action of trespass, according to the nature of the injury.

Trespassers amenable to law, &c.

3. *And be it enacted*, That this act shall be and remain in force for fifteen years, and no longer.

Limitation of act.

AN ACT to punish frauds committed on the incorporated banks of this state.

PAM. 213.

Passed the 21st of November, 1820.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That if any director of any incorporated bank in this state, or any cashier, book-keeper, or other officer employed in any such bank, shall purloin, embezzle, or convert to his own use, any money, bank-bill or note, the property of the said incorporation, with intent to defraud the said corporation, or wrongfully to make use of the same; in every such case, the person so offending shall be judged guilty of a high misdemeanor, and on being thereof convicted, shall be punished by fine, not exceeding one thousand dollars, or imprisonment not exceeding five years, or both.

Certain acts high misdemeanor.

2. *And be it enacted*, That if any cashier, book-keeper, or other officer employed in any such bank as aforesaid, shall make, or cause to be made, any false entry in any book of account, of the said bank, or in any way falsely keep the accounts of the said bank, with intent to cheat or defraud the said corporation, or any person dealing therewith; the person so offending shall be judged guilty of a high misdemeanor, and on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or imprisonment for any term not exceeding three years, or both.

3. *And be it enacted*, That if any director, cashier, book-keeper, or other officer, employed in any such bank as aforesaid, shall knowingly and intentionally overdraw his account in the bank in which he shall be a director, or employed as an officer as aforesaid, by reason whereof he shall unlawfully obtain money from

Penalty for overdrawing.

1820. the said bank, upon his check, contrary to the rules and regulations of the said bank, or if any such director, or other officer, as aforesaid, shall in any case overdraw his account, and shall not within ten days after being informed thereof, by an officer of the said bank, repay the sum so overdrawn, and make good his account in the said bank, the person so offending shall forfeit his appointment of director, or other officer, in the said bank, and be removed therefrom by the board of directors; and in case the said board of directors shall not remove the person so offending after notice thereof, but permit him to act as a director or officer in the said bank, they shall be responsible for his acts of misconduct.

APPENDIX.

AN ACT making provision for a compilation and revision of the laws of this state.

1819.

PAM. 60.

Passed the 2d of February, 1819.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That some fit and proper person, skilled in the laws of this state, be employed to examine, compile and prepare for the press, all such legislative acts and parts of acts as are general and of a permanent nature and affect the community at large, and which are in force or shall be enacted at the present or next annual session of the legislature, and all acts of incorporation of cities or towns, which by their charters are declared to be public acts, with authority to correct all errors in the orthography of the said laws, and to prepare and report to the legislature, at their next session, for their consideration, such bills as in his judgment shall be necessary or advisable to be passed into laws for forming and consolidating into one act, or into two or more consistent acts, all public acts or clauses of public acts relating to the same subject matter, with such corrections and amendments thereof, as he shall think proper to recommend to the legislature for their adoption.

Person to be employed to compile, &c.

2. *And be it enacted,* That where it may appear to such compiler that any public act or acts in force, is, or are defective and could be rendered more effectual by amendment, he shall prepare and report to the legislature, at their next session, such supplemental bill or bills as he may deem necessary for remedying such defects, accompanying the said bill or bills, with concise explanations and reasons therefor; and he shall also report a bill or bills repealing all such public acts and parts of public acts as shall then be virtually repealed or supplied by existing laws or provisions on the same subject.

3. *And be it enacted,* That the acts be printed in chronological order, with marginal notes of the contents of each law opposite the sections thereof, and with particular references to the other acts on the same subject, or relating thereto, in the new edition; and also references to the pages in former compilations or editions of the laws, and to the pages and years in the pamphlet acts since Bloomfield's edition, where the same act, or acts relating to the same subject, may be found; and that the constitution of this state and of the United States be printed in the first part of the first volume, together with a full alphabetical index of all the matters contained in the said volumes.

Order of printing the acts.

1820.

4. *And be it enacted*, That the work be published in octavo form in one or two volumes as may be required, and on paper and with types as good as those of the edition of the laws of the United States, lately published.

5. *And be it enacted*, That the compiler have free access to and be permitted to examine any of the public records, papers and books of this state, for the purposes aforesaid, without fee or reward, and that the legislature give a sanction and authority to this new edition of the laws, as published under their authority.

6. *And be it enacted*, That John Frelinghuysen, David Thompson, jun. and Thomas T. Kinney, be, and they are hereby authorized to employ some fit person,* willing to undertake the said compilation, and to agree with the said compiler on such reasonable terms of compensation as to them may seem proper for the execution of the said work, and to subscribe, on the part of this state, for such number of copies and at such price as may be agreed upon, and if preferred by the person undertaking the same, to leave the compensation to be made for the labor of compiling the said laws, to the discretion of the legislature, when the same is finished.

FAM. 67.

A SUPPLEMENT to the act, entitled "An act making provision for a compilation and revision of the laws of this state," passed February twelfth, one thousand eight hundred and nineteen.

Passed the 4th of November, 1819.

BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the act to which this is a supplement, and the appointment made by the commissioners therein named, be, and the same are hereby continued in full force until the end of the next session of the legislature.

FAM. 141.

AN ACT relative to printing a new edition of the public laws.

Passed the 13th of June, 1820.

Number of copies, &c.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That two thousand copies of the revised public laws of this state be printed, under the superintendence and direction of Samuel L. Southard and Charles Ewing, esquires, in manner and form as are prescribed in the act making provision for a compilation and revision of the laws of this state, passed February second, one thousand eight hundred and nineteen, and that Daniel Coleman correct the proof-sheets for the press.

By whom printed.

2. *And be it enacted*, That the said edition of public revised laws be printed neatly, and substantially bound in sheep and let-

* The commissioners appointed the Hon. WILLIAM S. PENNINGTON, esq.

tered, by Joseph Justice, of the city of Trenton, on the terms contained in his written proposals, submitted to the house of assembly: *Provided*, That if said edition shall not exceed one thousand pages, that the same be bound in one volume, and the said Joseph Justice deduct such proportion of the expense of binding one volume instead of two, therefrom.

1820.

3. *And be it enacted*, That the above named superintendents, Samuel L. Southard and Charles Ewing, esquires, be authorized, and they are hereby directed, to cause the said printer, Joseph Justice, before he enters upon the business, to enter into bond to the governor of the state, under such penalty and with such surety as they may reasonably require, for the faithful execution of the work, on the terms to be therein specified, and to be delivered as early in the next session of the legislature as practicable.

Printer to give bond.

4. *And be it enacted*, That in order that the revised edition of the laws may be correctly published, according to the original acts, it shall be the duty of the secretary of state, to deliver unto the superintendents before named, such of the original manuscripts and printed copies of laws, as they may require, to be safely returned after they shall have used the same for the purpose aforesaid.

Secretary of state to deliver to the superintendents certain acts.

5. *And be it enacted*, That it shall and may be lawful for the superintendents aforesaid, to draw upon the treasurer of the state, in favour of the printer, for such sum or sums of money, not exceeding the sum of two thousand five hundred dollars, as they shall find necessary to facilitate the progress of the work; and the treasurer is hereby authorized to pay the same out of any money in the treasury not otherwise appropriated.

Money to be drawn in favor of the printer.

6. *And be it enacted*, That the declaration of independence be published with the revised laws.

AN ACT to provide for the distribution of the compiled and revised public laws of this state.

PAM. 173.

Passed the 13th of June, 1820.

1. **BE IT ENACTED** by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That Samuel L. Southard and Charles Ewing, esquires, be authorized and required, as soon as may be, to deliver or cause to be delivered, to the treasurer of this state, after retaining one copy each, one thousand nine hundred and ninety-eight copies of the compiled and revised laws ordered to be printed for the use of the state.

Number of copies to be delivered to the treasurer.

2. *And be it enacted*, That the treasurer shall, on the receipt of the laws aforesaid, after retaining one copy for himself, cause one thousand five hundred copies to be delivered to, and distributed among the persons and in the proportions hereafter mentioned, namely: to the Honorable William S. Pennington, one copy; to the governor of the state, for himself, one copy; and

Their distribution.

1830.

eighty copies, to be by him transmitted to the executives of the several states and territories within the United States, for the use of the respective states and territories; to be forwarded and presented to the secretary of the department of state of the United States, four copies; and to the president of the American Antiquarian Society, one copy; to the justices of the supreme court, the attorney-general, the secretary of this state, and clerk of the supreme court, each one copy; to the clerk of council, for the use of council, six copies; to the clerk of assembly, for the use of assembly, fifteen copies; and the remainder shall be distributed among the counties of this state, in proportion as they severally contribute to the support of government; and the said treasurer shall transmit them, at the expense of the state, to the collectors of the several counties of this state.

How distributed in the county,

and in the township.

3. *And be it enacted*, That each and every of the said county collectors, after retaining one copy for himself, shall, at the expense of the county, transmit one copy of the laws aforesaid, to each of the following officers: to the judges of the court of common pleas, the justices of the peace, the sheriff, clerk of the court of common pleas and surrogate of said county, the clerk of the board of chosen freeholders, for the use of the board, and to the present representatives of the county in the state legislature, and to each incorporated library company, one copy: *Provided always*, That no more than one copy shall be delivered to any one person, notwithstanding such person may hold several offices; and five copies shall be transmitted to the clerk of each township, who shall, within one week after the receipt of the same, retaining one copy for himself, cause the residue to be distributed among the following officers of the township, namely: the assessor, collector, township committee and overseers of the poor, and the receipts of the persons so entitled to receive the same, shall be a sufficient voucher to the said treasurer and collector in the settlement of their accounts, for the money by them for this purpose, expended. And if there should be a surplus in any county, after the aforesaid distribution, it shall be subject to the order of the board of chosen freeholders of the county, for the use of the county.

At expiration of office, or death of county officers, copies of the laws to be deposited in the clerk's office.

4. *And be it enacted*, That at the expiration or removal from office of any judge or clerk of the court of common pleas, justice of the peace, surrogate, sheriff or county collector, it shall be his duty to deliver the aforesaid copy of the laws to the clerk of the county, to be deposited in his office, for the use of such person as shall be appointed to execute the said office in his place or stead, and in case of the death of any of the aforesaid officers, the said copy shall be delivered, as aforesaid, by their lawful representatives, and in case of neglect or refusal, for three months, in any of the aforesaid officers or their representatives, then it shall be the duty of the said clerk to prosecute the delinquent or delinquents for double the value of the said copy or copies, in any court where the same may be cognizable, and recover the same, with costs of suit, for the use of the county, by action of debt, in the name of the state.

5. *And be it enacted*, That if any of the before recited officers of any township, who shall have received any of the aforesaid copies, shall neglect or refuse, or, in case of his decease, his lawful representatives shall neglect or refuse, within one month after the expiration of his office, to deliver to the clerk of the township to which he belongs, for the use of the township, the copy by him received, it shall be the duty of the clerk of the township to prosecute and recover, in the name of the inhabitants of the township, from the delinquent, for the use of the township, double the value of the said copy, in any court where the same may be cognizable, with cost of suit, in the manner provided in the fourth section of this act.

6. *And be it enacted*, That if any collector or clerk shall neglect or refuse to perform any of the duties required of him by this act, he shall, for each offence, forfeit and pay the sum of fifty dollars, to be sued for in any court of competent jurisdiction, by the director of the board of chosen freeholders of the county where he may reside, to be applied to the use of the county.

7. *And be it enacted*, That the residue of the said printed copies of the compiled and revised public laws, shall be retained by the said treasurer, subject to such disposition as may be made of the same by law.

8. *And be it enacted*, That an act to provide for the distribution of the revised laws of this state, and to appropriate a further sum of money towards defraying the expense of the revision, passed November twenty-first, one thousand seven hundred and ninety-nine, be, and the same is hereby repealed.

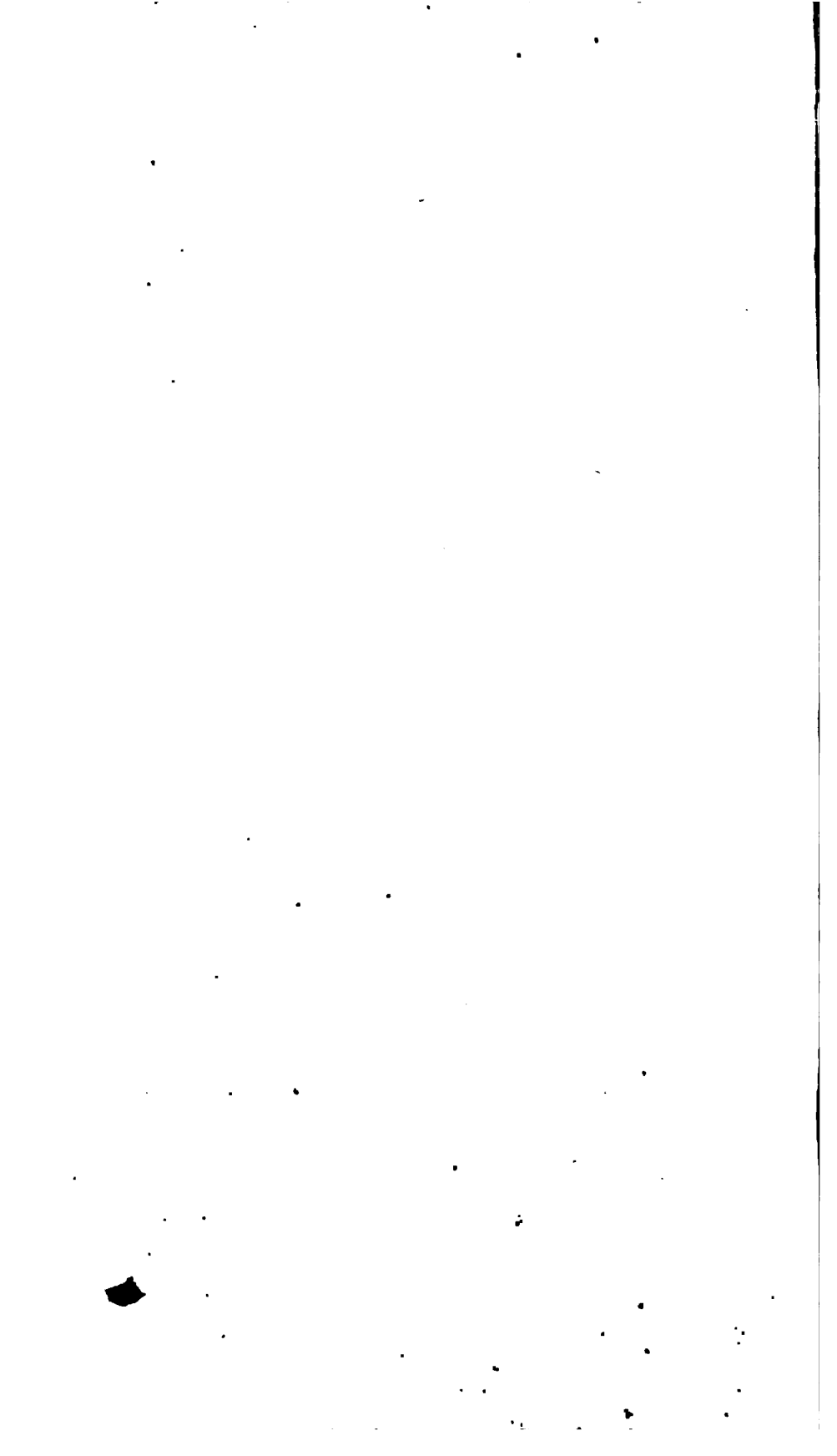
1820.

Where to be
deposited by
township off-
icers.

Penalty on
collector or
clerk for ne-
glect of duty.

Copies retain-
ed.

Act repealed.



REFERENCE TO PRIVATE LAWS,

SINCE BLOOMFIELD'S COMPILATION.

	Date of law.
ALIENSpermitted to hold lands. Hogh Lesley and Abraham Mosely,	1812. Jan. 22,
APPROPRIATION OF MONEY , to protect maritime frontier,	1813. Feb. 2, Nov. 4,
to pay D. Smith and others,	1818. Jan. 30,
J. C. Meuron and others,	1819. 20,
to compensate W. S. Pennington,	1820. June 12,
to alter state-prison,	Nov. 21,
ARMSto be repaired in state-prison,	1817. Feb. 13,
ARTILLERYpiece to be preserved by 5th regiment of the Essex brigade,	1814. 14,
BANKS, MONEYincorporated and regulated. State right of subscription transferred, Supplement, at Camden, Supplement, Farmers', of New-Jersey, Paterson, Supplement, Cumberland, at Bridgeton, Sussex, Jersey, Supplement, do. New-Brunswick, supplement,	1812. Jan. 28, 1813. Feb. 15, 20, 19, 20, Nov. 1, 1815. Jan. 26, 26, 1816. Feb. 2, 15, 1818. Jan. 31, Feb. 6, 13, 1819. Jan. 15, 1820. Nov. 21,
BANKSsluices, dams, &c., authorized, &c. across Raccoon Creek, by Abraham Batten, Maurice River, by A. T. Moore, Salem Creek, See DAMS.	1813. Jan. 13, 11, 1820. Feb. 28,
BELLEVILLE FACTORY , 5 K	1815. 40,

	Date of law.
BELVIDERE ESTATEdivided,	1818. Feb. 14,
BERGENprisoners, where imprisoned,	1819. Jan. 16,
BIBLE SOCIETY OF N. JERSEYincorporated,	1813. Feb. 6,
BRIDGESauthorized, regulated, &c.	
Drawbridge over Tuckahoe,	1812. Jan. 23,
New-Hope Delaware,	23,
over Tom's River,	24,
Alexandria, at Pursell's ferry,	Feb. 3,
Saxtonville,	4,
over Newton Creek,	1813. 13,
Supplement,	1815. 10,
Wading River,	1814. Jan. 13,
Delaware, near Milford,	27,
at Columbia Glass Manufactory,	1816. 30,
over Menantico, in Cumberland,	1819. 15,
Rancocus Creek,	11,
same,	1818. 23,
at Camden,	1819. 26,
over Rancocus, between Burlington and	
Cooper's ferry,	Feb. 15,
Salem Creek,	
Pennsylvania and New-Jersey Communi-	
cation Company,	1820. 23,
Supplement,	May 24,
CAMDENlien on buildings,	Feb. 25,
CANALSauthorized, &c.	
between Cohansey and Back Creek,	1811. Nov. 1,
to shorten Salem Creek,	1813. Feb. 18,
route from Delaware to Rariton,	1816. 13,
additional act,	1817. 8,
through Manasquan Beach,	1816. 10,
Supplement,	1817. Jan. 27,
from Clay-Pit Creek to Brown Creek,	1816. 16,
in Salem Creek, by John Denn,	1818. Nov. 6,
New-Jersey Delaware and Rariton,	1820. Mar. 2,
CAUSEWAY ...in Elizabeth Great Meadows,	1812. Nov. 10,
Supplement,	1813. Jan. 27,
CHOSEN FREEHOLDERS OF GLOUCESTER,	
to purchase bridge, &c.	1813. Feb. 18,
COLLEGEQueen's, lottery,	1812. Jan. 15,
COMMISSIONERS,	
to clear rivers....See RIVERS.	
to divide Eagle Island survey,	1813. Feb. 9,
to take charge of the stock in Society to	
promote Useful Manufactures,	1814. 12,

REFERENCE TO PRIVATE LAWS.

811

Date of law.

COMMISSIONERS,

to settle differences with Pennsylvania,
to bank and improve meadows.

1817. *Feb. 15,*

See MEADOWS.

WATER-STREET, *N. Brunswick.*

of forfeited estates in Monmouth,

13,

COMPENSATION....of Reuben D. Tucker,

1816. 15,

Simeon Crane,

Oct. 29,

William S. Pennington,

1820. *June 12,*

See RELIEF.

APPROPRIATION.

COMPILATION AND REVISION OF PUBLIC LAWS,

1819. *Feb. 2,*

Printing same,

1820. *June 13,*

CONSTABLE....relief of sureties of G. J. Wrightington,

1818. *Jan. 27,*

Thomas Kendall,

Nov. 6,

CONTRACTS....for sale of lands of James Earhart,

1813. *Feb. 20,*

John Smith,

1814. *Jan. 28,*

William Lindsay,

1815. *Feb. 11,*

Conrad Lamerson,

1816. *Jan. 2,*

Benjamin Guild,

1817. 22,

George Bidleman,

1818. *Feb. 4,*

Peter H. Conover,

1819. *Jan. 21,*

Peter Melick,

26,

Jacob Bowers,

Feb. 10,

John Lawshe,

1820. 21,

COTTON AND WOOLLEN MANUFACTORY AT NEWARK,

1815. 6,

COURT-HOUSE AND GAOL....in Salem,

1818. *Nov. 6,*

Bergen,

1819. *Jan. 16,*

CREEKS....See RIVERS.

DAMS....banks, sluices, &c., authorized and regulated.

Wingdam in Delaware at Ramsay's and Barton's
Island,

1811. *Nov. 4,*

Wingdam in Delaware, by N. Alberson,

4,

Prall & Lambert,

1814. *Jan. 24,*

John Shurlock,

Feb. 1,

D. W. Coxe *et al.*,

1815. 4,

Supplement,

1816. 10,

across South Branch of Rancocus,

1812. *Nov. 12,*

Bound Creek in Essex,

1816. *Feb. 14,*

Munaghia Creek in Bergen,

7,

Rancocus, by Earl & Black,

1817. *Jan. 31,*

and bank on Repaupo Creek,

Feb. 3,

locks across Rancocus, by A. Eayre,

Nov. 6,

	Date of law.
DAMS,	
and sluices on Kingsland Creek,	1818. Jan. 20,
Supplement,	1819. 14,
do.	1820. Nov. 6,
floodgates on South Branch of Rancocus, by	
Davis & Stokes,	1818. Jan. 22,
or bank on Salem Creek in Mannington,	Feb. 2,
across Berry's Creek,	6,
Rariton, by A. Hassert and others,	12,
Vandoren,	1820. 16,
DEEDfrom J. W. Pierson, to brothers and sisters, confirmed,	1812. Jan. 24,
DIVORCEof Elizabeth and Moses Burnet,	1813. Feb. 8,
Magdalen and Peter H. Hurtell,	1814. Jan. 20,
Abigail and Israel Brant,	27,
Mary and Daniel Golden,	Feb. 11,
Mary and Samuel C. Raye,	
George C. and Elizabeth R. Miller,	1815. 3,
Simon and Ida Hagarman,	9,
Margaret and Moses Kent,	15,
Jotham and Jane Hubbard,	Nov. 1,
Stephen and Charlotte Snethen,	1816. Feb. 14,
Thomas and Catharine Wilson,	1817. Nov. 6,
John and Abigail Morgan,	1818. Jan. 14,
Margaret and Antrim Conarow,	21,
W. A. B. and Catharine Kinney,	Nov. 4,
Robert and Ann Downes,	1819. Jan. 24,
Sarah and Daniel Leonard,	25,
Elizabeth and Linus Williams,	26,
Eliza and Philip Post,	Feb. 9,
George and Elizabeth Ring,	15,
Jonathan and Jane Tompkins,	Nov. 4,
Betsey and David Williams,	1820. Feb. 22,
DIRECT TAXhow paid,	1813. Nov. 3,
EAGLE ISLAND SURVEYdivided,	Feb. 9,
ELIZABETH GREAT MEADOWSroad or causeway,	1812. Nov. 10,
Supplement,	1813. Jan. 27,
ENCLOSURESee WOODLAND .	
EXECUTORSSee WILLS .	
FAMILY SETTLEMENTSee DEED .	
FIRE COMPANYincorporated and regulated.	
Fire Assurance Company of Newark,	1811. Nov. 4,
Mutual Assurance Fire Co. of Elizabeth,	1812. 10,
Newark Fire Department,	1815. Feb. 11,
Morris-Town Fire Company,	1819. 12,

FIRE ENGINEin Newark,	Date of law. 1819. Feb. 4,	
FISHERYowners in upper and middle townships in Cape-May incorporated,	1815.	5,
FLOODGATESSee DAMS.		
FORFEITED ESTATESin Monmouth,	1817.	13,
GAOL AND WORKHOUSEin Burlington, Salem,	1813. 1818. Nov. 6,	2, 6,
GATEon road over Thomas Shearman's land,	1814. Feb. 11,	
GOVERNMENT HOUSEto be sold,	1817. Jan. 23, 1819. Feb. 9,	
GREAT PIECE, IN CALDWELLto be enclosed,	1820.	3,
GUARDIANof A. Voorhees, lunatic, to sell land,		17,
INCORPORATIONSFire Assurance Co. of Newark,	1811. Nov. 4,	
New-Hope Delaware Bridge Co.,	1812. Jan. 23,	
State Banks,		28,
Alexandria Bridge Co.,		Feb. 3,
Saxtonville Bridge Co.,		4,
Mutual Assurance Fire Co. of Elizabeth,		Nov. 10,
Owners of fishery in Cape-May,	1813. Feb. 5,	
New-Jersey Bible Society,		6,
Princeton,		11,
State Bank, subscription transferred,		15,
		19,
Woollen Factory, Beaver, at Paterson,		17,
State Bank at Camden, treasurer to subscribe,		20,
Manufacturing Co. at Cedar Grove,	1814. Jan. 21,	
Milford Bridge Co.,		26,
Presbyterian Congregation at Pittsgrove,		Feb. 2,
Essex Manufacturing Co.,		11,
Manufacturing Co. at West Bloomfield,		Nov. 14,
Meadham Cotton and Woollen Manufactory,		
Farmers' Bank of New-Jersey,	1815. Jan. 28,	
Paterson Bank,		
Passaick Manufacturing Co.,		31,
Rail road from Trenton to N. Brunswick,		Feb. 6,
Cotton and Woollen Manufactory at Newark,		
Newark Fire Department,		11,
Steam Boat Co. of Penn. and N. Jersey,		
Stage and Steam Boat Co. of Shrewsbury and N. Jersey,		10,
Supplement,	1816. Jan. 15,	
Steam Boat Ferry Co. at N. Brunswick,	1815. Feb. 15,	
Belleville Factory,		16,
Paterson Cloth Manufacturing Co.,		18,

INCORPORATIONS,

Date of law.

Clay-Pit Creek and Canal Co.,	1816. Jan. 16
Cumberland and Cape-May Meadow Co.,	24
Franklin Manufacturing Co. at Bloomfield,	29
Columbia Bridge Co.,	30
Cumberland Bank at Bridgeton,	Feb. 15
Presbyterian Congregation in Chatham,	1818. Jan. 22
Protestant Episcopal Church in Trenton,	26
Sussex Bank,	31
Jersey Bank,	Feb. 6
York and Jersey Steam Boat Ferry Co.,	7
Jersey Bank, supplement,	13
same,	1819. Jan. 15
Penn. and N. Jersey Communication Co.,	26
Morris-Town Fire Co.,	Feb. 12
New-Jersey Salt Marsh Co.,	1820. Jan. 28
Penn. and N. Jersey Communication Co.,	Feb. 23
Presbyterian Congregation in Lawrence,	25
N. Jersey, Delaware and Rariton Canal Co.,	Mar. 2
Penn. and N. Jersey Communication Co.,	May 24

JOSIAH HARRISON....to record certain wills in Salem, 1814. Jan. 24,

LANDS AND REAL ESTATE....sale, management, &c.

See CONTRACTS.

of Harman Hummer,	1811. Nov. 1
George Job,	2
Joseph Brearley,	
James Cox,	
Jonathan Paul,	1812. Jan. 16
Paul Duryea,	22
John Van Allen,	23
Anthony Dye,	
Elias Phillips,	
Henry Roe,	24
Rachel Newton,	25
Jacob Swayze,	
Edward Wyckoff,	31
John Cox,	Feb. 1
Thomas Johnston,	5
Alexander M'Whorter,	1813. 4
Benjamin Westervelt,	19
James Earhart,	20
Consistory of Dutch Church of Bergen,	1814. Jan. 28
David Potter,	1815. Oct. 30
Conrad Lamerson,	1816. Jan. 26
Clayton Brown,	31
St. Andrew's Church in Amwell,	Feb. 15
Benjamin Guild,	1817. Jan. 22
Moses Tichenor,	1818. 20
David Vail,	
James Earhart,	23

Date of law.

LANDS AND REAL ESTATE,

John A. Schuyler,	1818. Jan. 29,
George C. Maxwell,	Feb. 3,
Elizabeth Joroleman,	9,
Belvidere estate,	14,
John Clickinger,	Nov. 5,
Peter H. Conover,	1819. Jan. 21,
Peter Melick,	26,
Jacob Bowers,	Feb. 10,
Abraham Voorhees, lunatic,	1820. 17,
John Mandeville,	21,
Philip Williams,	June 1,
James Wood,	Nov. 3,

LIBRARY....of the state,
Company in Trenton,

1813. Feb. 12,
19,

LOCKS....See **DAMS**.

LOTTERY....Queen's College,
Union Turnpike,
Owego do.
Navigation Lottery—North Branch of Ran-
cocus Creek,
additional act,

1812. Jan. 15,
1815. Feb. 4,
1816. 15,
1817. Jan. 21,
1819. Feb. 16,

MANAGERS....to open water-courses....See **RIVERS**.
improve meadows, &c....See **MEADOWS**.

MANUFACTURING COMPANY,

Cedar Grove,	1814. Jan. 21,
Essex,	Feb. 11,
West Bloomfield,	Nov. 3,
Mendham,	
Passaick,	1815. Jan. 31,
Newark,	Feb. 6,
Belleville,	11,
Franklin at Newark,	1816. Jan. 29,

MARITIME FRONTIER....See **APPROPRIATION**.

Defence of,

1813. Nov. 4,

MEADOWS....marsh, swamps, drained, cleared, &c.

Maidenhead,	1812. Feb. 3,
Elizabeth great road through,	Nov. 10,
Supplement,	1813. Jan. 27,
in upper township in Cape May,	Feb. 11,
Bog or Fly, in Morris,	18,
Supplement,	1818. May 6,
in Cape-May,	1815. Jan. 18,
Flowed lands on Passaick,	Feb. 8,
	27,
in the forks of Salem,	1816. Jan. 31,

	Date of law.
MEADOWS,	
in Fairfield, Cumberland,	1816. Feb. 1,
Tide swamp, between Hackensack and Passaic,	5,
in Mannington,	2,
between Moore's Bank and Tyler's Point,	
in Salem,	2,
in Cumberland and Cape-May,	Jan. 24,
Cape-May,	1817. 17,
Rariton Great Meadows in Woodbridge and Piscataway,	23,
adjoining Repaupo Creek,	Feb. 3,
Overpeck Creek,	10,
in Cape-May, (supplement)	Nov. 6,
between Moore's Bank and the Bank Tyler's to Sheets' Point,	1818. Feb. 7,
on Kingsland Creek,	1819. Jan. 14,
Lake Creek in Gloucester,	20,
in township of Downe,	Feb. 2,
Shrewsbury and Middletown,	1820. Jan. 28,
Salt marsh in Bergen,	
in Downe, Cumberland,	31,
on Cohansey Creek,	Feb. 1,
MECHANICSlien on buildings in Camden,	25,
MORRIS-TOWNofficer's acts legalized,	June 10,
NAVIGATIONSee RIVERS.	
NEW-BRUNSWICKpavement of Water Street,	1812. Feb. 5,
NEWARKcotton and woollen manufactory,	1815. 6,
poor-house,	Jan. 25,
PATERSON CLOTH MANUFACTURING Co.	1815. Feb. 18,
PENNSYLVANIAcommissioners to settle differences,	1817. Jan. 31,
PITTSBORO , PRESBYTERIAN CONGREGATION,	1814. Feb. 2,
POOR-HOUSEin Newark,	1815. Jan. 25,
POWDER MAGAZINEof Bullus, Decatur and Rucker,	1813. Feb. 18,
PRESBYTERIAN CONGREGATIONat Pittsgrove,	1814. 2,
Chatham,	1818. Jan. 22,
Lawrence,	1820. Feb. 25,
PRINCETONincorporation,	1811. 1,
Supplement,	1814. Jan. 20,
do.	1816. Feb. 14,
PRISONERSin Bergen, where confined,	1819. Jan. 16,

REFERENCE TO PRIVATE LAWS.

817

PUBLIC LAWS....*compilation and revision,*
Printing,
Date of law.
 1819. *Feb. 2,*
 1820. *June 13,*

QUEEN'S COLLEGE....*lottery,*
 1812. *Jan. 15,*

REAL ESTATE....*See LANDS and RELEASE.*

RELEASE OF STATE-RIGHT....*to lands of Robert*
Campbell,
to lands of William Rogers,
 1815. *Feb. 8,*
 1819. *Jan. 27,*

RELIEF AND COMPENSATION,
of H. C. and G. H. Vannortwick,
Isaac Andruss, Martin Schenck and Col.
Emley,
Nicholas Izard,
Peter Corriell,
Asa Wright,
Jane Smith, releasing right &c.
Capt. John Scull and others,
James Miller,
George Browning,
Capt. Robert Smith and others,
James Tunison and others,
Mary Shields,
Stephen Dod,
William Sandford,
Catharine Dally,
Samuel Lamb,
Ezra Baker,
James Jackson,
Thomas T. Kinney,
commissioners of forfeited estates in Mon-
mouth,
Jacob Allen,
Charlotte Howell,
sureties of J. G. Wrightington,
Daniel Smith,
Ezra Dunham,
William Larrison and Stephen Luse,
sureties of Thomas Kendall,
Ann Rogers,
J. C. Meuron and others,
Joseph and Silas Munn,
Rebecca Hawley,
James Armstrong,
Ogden Johnson,
John Boyd,
Alexander M'Kean,
Ziba Muir,
 1812. *Feb. 4,*
 1814. *Jan. 27,*
Feb. 3,
Nov. 3,
 1815. *Jan. 17,*
Feb. 8,
9,
15,
18,
 1816. *Jan. 8,*
31,
Feb. 1,
Oct. 29,
30,
 1817. *Jan. 17,*
Feb. 6,
7,
8,
13,
 1818. *Jan. 19,*
20,
27,
30,
Feb. 6,
14,
Nov. 6,
 1819. *Jan. 27,*
Feb. 6,
16,
Nov. 5,
 1820. *June 10,*
Nov. 2,
3,
20,
20,

REVISION....*See PUBLIC LAWS.*
 5 L

	Date of law.	
RIVERScreeks, water-courses, cleared &c.		
Passaick, between Little Falls and Chatham,	1812.	Jan. 31,
Delaware, navigation, between Perrywig and Biles' Island,	1813.	Feb. 13,
Muddy Run, in Salem,	1814.	Jan. 18,
Stony Brook,	1815.	24,
Mannington Creek,	1817.	Feb. 13,
Water-course through Moore's bank,	1818.	7,
Lake Creek, in Gloucester,	1819.	Jan. 20,
Pepocotton Creek,		26,
Delaware, grant to Stevens,		Feb. 12,
Passaick, between Cook's bridge and the reef next to Singack bridge,	1820.	2,
Passaick, between Bonnell's upper saw-mill and the mouth of Dead River,		16,
ROADor causeway, in Elizabeth Great Meadows,	1812.	Nov. 10,
Supplement,	1813.	Jan. 27,
Gate over, through Thomas Shearman's land,	1814.	Feb. 11,
Rail, from Trenton to New-Brunswick,	1815.	6,
through marsh in Stow Creek,	1820.	Jan. 31,
ST. MICHAEL'S CHURCHin Trenton,	1818.	23,
SALE OF LANDSSee LANDS .		
SALEM COURT HOUSE ,		Nov. 6,
Wills recorded by Josiah Harrison,	1814.	Jan. 24,
SECURITIESof J. G. Wrightington, constable,	1818.	27,
Thomas Kendall, do.		Nov. 6,
SLAVESof John Boyd, removed to New-York,	1820.	3,
SLUICESSee DAMS .		
STAGE & STEAM BOAT CoShrewsbury and Jersey,	1815.	Feb. 10,
Supplement,	1816.	Jan. 15,
	1819.	Feb. 12,
See STEAM BOAT .		
STATE LIBRARY ,	1813.	12,
STATE HOUSErepaired,	1812.	5,
same,	1820.	Mar. 2,
Street paved &c.	1820.	Nov. 21,
Supplement,	1813.	Feb. 19,
		Nov. 3,
STATE PROPERTYto be sold,		
in Trenton,	1817.	Jan. 23,
	1819.	Feb. 9,
to be repaired in Paterson,	1817.	12,
Trenton,		13,

	Date of law.
STATE PRISONalteration,	1820. <i>Nov.</i> 21,
STEAM BOAT Coof Pennsylvania and N. Jersey,	1815. <i>Feb.</i> 11,
Ferry, New-Brunswick,	15,
of York and Jersey,	1818. 7,
STOCKin Society for Useful Manufactures,	1844. 12,
transferred,	1816. 1,
SURROGATE OFFICEin Salem, wills recorded,	1814. <i>Jan.</i> 24,
TIDE SWAMPS,	1819. <i>Feb.</i> 10,
TOWN OFFICERSof Morris-Town,	1820. <i>June</i> 10,
TREASURERto subscribe to Camden Bank,	1813. <i>Feb.</i> 20,
pay money to Daniel Smith,	1818. <i>Jan.</i> 30,
Rebecca Hawley,	1819. <i>Nov.</i> 5,
J. C. Meuron and others,	<i>Jan.</i> 29,
TRUSTEESto sell lands.... <i>See LANDS.</i>	
concerning estate of Lord Stirling,	1813. <i>Feb.</i> 19,
to execute wills.... <i>See WILLS.</i>	
TURNPIKEfrom Dover to Suckasunny,	1812. <i>Jan.</i> 15,
Water-Gap,	1813. <i>Feb.</i> 3,
Spruce Run,	6,
Ringwood and Long-Pond,	10,
Decker-Town and Milford,	11,
Hope and Hacket's-Town,	
New Germantown,	
Spruce Run, supplement,	1814. <i>Jan.</i> 26,
Decker-Town and Newton,	27,
Vernon and Newton,	
Trenton and N. Brunswick, supplement,	<i>Feb.</i> 1,
Middleburgh and N. Brunswick,	11,
Hackensack and Hoboken,	1815. <i>Jan.</i> 13,
Supplement,	1818. 21,
Union, to make lottery,	1815. <i>Feb.</i> 4,
Perth-Amboy,	
Paterson to Hackensack,	6,
Mount Hope and Longwood,	11,
Supplement,	1820. 7,
New-Providence,	1815. 11,
Paterson and Hamburg, supplement,	
New-Jersey, supplement,	14,
additional supplement,	1816. 15,
George-Town and Franklin,	15,
Supplement,	1819. <i>Jan.</i> 20,
Bordentown and South-Amboy,	1816. <i>Feb.</i> 16,
Supplement,	1817. <i>Jan.</i> 30,
	<i>Nov.</i> 6,
	1819. <i>Jan.</i> 29,
	<i>Feb.</i> 16,
Belleville,	
Woodbridge to New Blazing Star,	

	<i>Date of law.</i>
TURNPIKEfrom Paterson and Hamburg to Hudson,	1819. <i>Feb.</i> 16,
Decker-Town and Newton, supplement,	1817. 4,
Newark and Morris, supplement,	12,
Supplement,	1818. <i>Jan.</i> 15,
do.	1820. <i>Feb.</i> 7,
Pockuck,	1817. 12,
New Germantown survey confirmed,	5,
Decker-Town and Milford,	1818. <i>Jan.</i> 23,
Columbia and Walpack,	1819. 21,
Newton,	<i>Feb.</i> 6,
Ringwood and Long-Pond, supplement,	
Perth-Amboy and Boundbrook,	1820. 18,
Newark and Mount-Pleasant, supplement,	<i>Nov.</i> 9,

WATER-COURSES....*See RIVERS.***WATER-STREET**....*See NEW-BRUNSWICK.***WILLS**....confirmed, explained, executed.

of Thomas Grant,	1811. <i>Nov.</i> 2,
Nathan Sheppard,	1812. <i>Jan.</i> 16,
Henry Roe,	24,
Ira Condit,	30,
Jonathan Pidcock,	<i>Feb.</i> 1,
William Emery,	<i>Nov.</i> 10,
John Miller,	1813. <i>Feb.</i> 17,
Isabella Paterson,	
to be recorded in Salem,	1814. <i>Jan.</i> 24,
Jacob Browning,	<i>Feb.</i> 7,
Anthony A. Rutgers,	11,
Catharine Miller,	25,
Christopher Strimple,	26,
Henry Harper,	1815. 27,
Peter Vanburgh Livingston,	28,
David Thorp,	1816. 12,
Samuel Wills,	
Daniel Martin,	1818. <i>Jan.</i> 22,
John Clickinger,	<i>Nov.</i> 5,
Thomas Hoff,	1819. <i>Jan.</i> 22,

WOODLAND....to be enclosed &c.

in New-Barbadoes,	1813. <i>Feb.</i> 11,
Supplement,	1817. <i>Jan.</i> 24,
of road from Herring's mill to Pollify,	1814. <i>Feb.</i> 4,
in Harrington,	12,
same,	1820. 3,
in Franklin township,	1814. 11,
same,	1816. <i>Jan.</i> 29,
in Saddle River,	1815. 7,
same,	1816. 29,
Where horses not to run, &c.	31,

WOOLLEN FACTORY....Beaver, at Paterson,1813. *Feb.* 17,

EXPLANATION OF CERTAIN LATIN AND FRENCH TERMS MADE USE OF IN THE PRECEDING LAWS.

AB initio. From the beginning.

Administrator cum testamento annexo. Administrator with the testament annexed.

Administrator de bonis non. Administrator of the goods of the deceased not administered by the former executor or administrator.

Administrator durante absentia. Administrator during the absence of the executor.

Administrator durante minore etate. Administrator during the minority of an infant executor or administrator.

Administrator pendente lite. Administrator pending a suit relative to the validity of the will, or the right to administration.

Ad quod damnum. A writ to inquire what damages, &c.

Aid-prayers. When the tenant, in a real action, prays in aid, or calls for the assistance of another person who is interested, to help him to plead.

Bona fide. With good faith.

Capias ad respondendum. Process of arrest to compel the defendant to appear in court, and answer the plaintiff.

Capias ad satisfaciendum. A writ of execution against the person.

Cepi corpus. I have taken the body.

Cestui que trust. He for whom the trust is, or the person entitled to the fiduciary profits.

Choses in action. Things in action.

De bene esse. Conditionally.

De novo. Anew.

Distringas juratores. A writ to distrain jurors, who have been previously summoned, by their lands and goods, in order to compel their appearance at the time and place appointed.

Ex officio. By virtue of his office.

Ex parte. Of the one part.

Fieri facias. } A writ of execution against goods and chattels.
Fieri facias de bonis. }

Fieri facias de bonis et terris. A writ of execution against goods and lands.

Habeas corpora juratorum. A compulsive process to bring in the jurors, who have been previously summoned.

Feme covert. A married woman.

Femes covert. Married women.

Instantanter. Instantly.

In ventre sa mere. Unborn; literally, in its mother's womb.

Ne ezeat. A writ to restrain a person from going out of the state.

Nil dicit. } He says nothing.
Nihil dicit. }

Non compos. }

Non compos mentis. } Not of sound mind.

Non est inventus. He is not found.

Non sum informatus. I am not informed.

Quare clausum fregit. Wherefore he broke the close.

Rescous. Rescue,

Riens per descent. Nothing by descent.

Scire facias. A writ to shew cause.

Subpœna ad revivendum. Process to revive a suit in chancery.

Subpœna ad testificandum. Process to compel witness to appear and testify.

Supersedeas. A writ to stay proceedings.

Talesmen. A supply of such men, as being summoned for jurors on the first panel do not attend, in order to make up the deficiency.

Tales de circumstantibus. A supply of such men, as are present in court, and necessary to complete the jury.

Venire. } First process

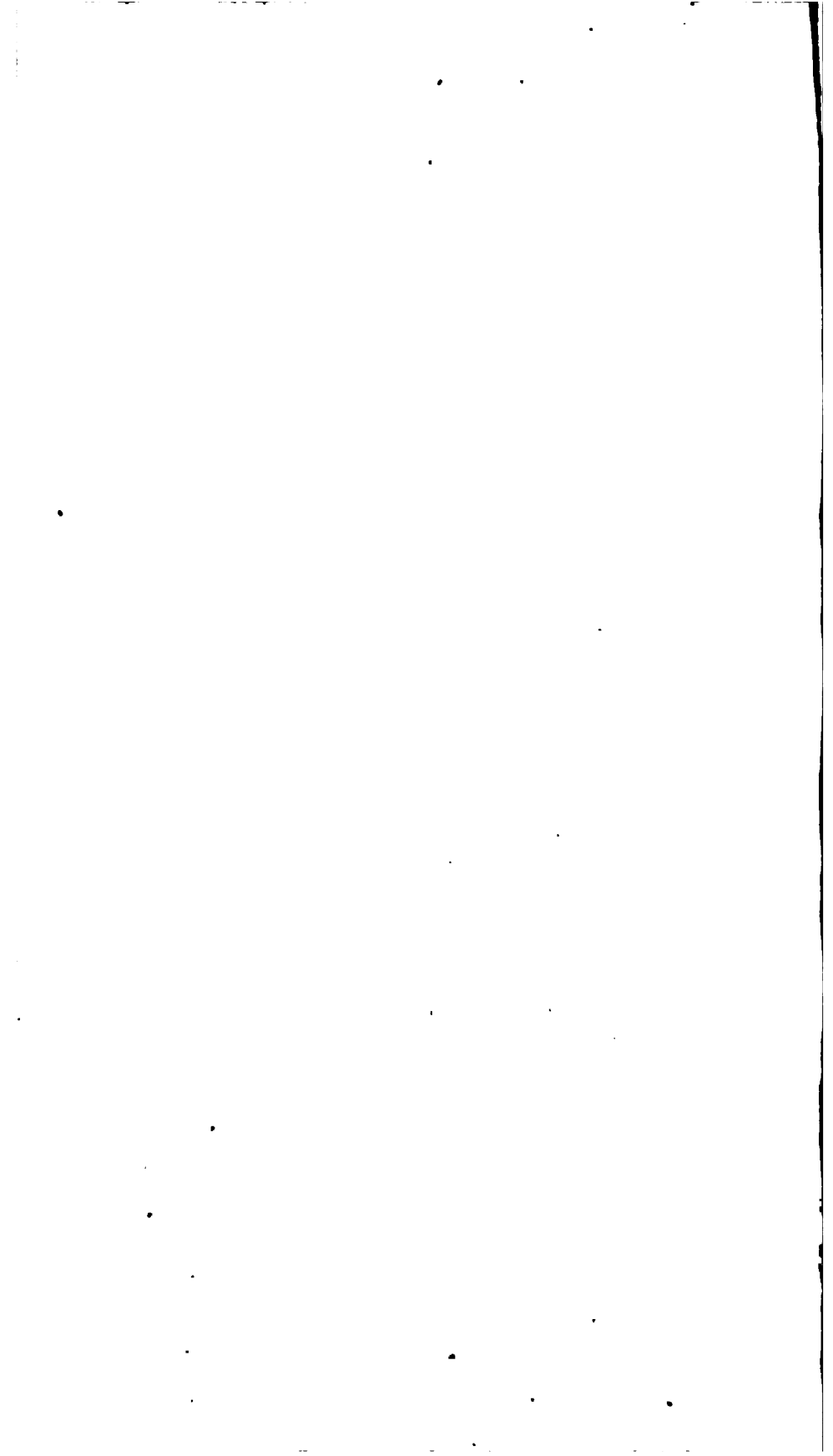
Venire facias. } for convening

Venire facias juratores. } a jury.

Vi et armis. With force and arms.

Viva voce. Orally, or by word of mouth.

Writ of dower unde nihil habet. A writ to recover dower, where none has been assigned.



INDEX.

	Page.	ACT
ABATEMENT—Of suit for death of party,	163-6	
Plea in, not admitted in partition,	301	
Death of defendant not to abate attachment,	362	
Writ of dower, when not to abate,	398	
ABDUCTION, FORCIBLE—Punishment,	246	
ABOLITION—Of slavery,	679	
ABSCONDING DEBTOR—Proceedings against,	361	
ABSENCE—Of seven years, presumption of death,	288	
ABSENT DEFENDANT—Proceedings against, in chancery,	702	
ABSENT DEBTOR—Proceedings against, in attachment,	361	
Proceedings where he appears to attachment,	733	
ACADEMIES—Students at, not to be entertained &c. by tavern-keepers and others,	532	
ACCEPTANCE—Of inland bills,	396	
ACCEPTANCE OF APPOINTMENTS—In militia,	586	
ACCESSARY—In some cases of murder, where tried,	297	
ACCOUNT—Action of, who may have,	156	
Proceedings in,	<i>ib.</i>	
Limitation of,	410	
ACCOUNTS—By guardians,	402	
Of treasurer,	429	
In what money to be kept,	446	
Of state prison and treasurer, when to be rendered,	547	
— physicians, how kept and rendered,	628	
— executors, administrators and guardians, how settled,	786	
ACKNOWLEDGMENT—Of deeds &c.	458	
Duty of person taking,	748	
Of deeds &c. by commissioners,	792	
ACTION—See <i>Frauds and Perjuries</i> ,	152	
Not maintained for accidental fire,	210	
See <i>Appeal for murder</i> ,	263	
Against heir and devisee, on contract of ancestor and testator,	201	
Against tenant for life, defended by reversioner,	346	

	Page
ADM	
ACTION—Against husband, defended by wife,	347
On penal statute, stay of execution on writ of error,	402
On penal statute, limitation of,	412
When actions consolidated,	421
Transitory, in supreme court, where tried,	450
Style of, to recover money due state,	690
To recover money due state,	ib.
When action against executors and administrators may be commenced,	768
ACTION, POPULAR—Law respecting stay of execution on writs of error not to be applied to,	402
ACTING INSPECTOR—Of state-prison,	732
ADJUTANT-GENERAL—Duties,	585
To distribute copies of militia law,	712
— receive annual returns of brigade inspectors,	ib.
ADMINISTRATION OF JUSTICE—Law for more effectual &c., repealed,	795
ADMINISTRATION—To whom granted, when intestate leaves no relations,	76
Who have a right to it, inventory, bond &c.	175
With will annexed,	180
Letters of,	776
— how, and for what revoked,	778
How surrogate to grant letters,	782
ADMINISTRATORS—Acts before notice of will, good,	51
Not charged, unless contract in writing,	152
May sue or be sued in action of account,	156
When they may revive suit,	164
— not to pay costs,	168
How to sue and be sued,	174
Powers and duties,	174 to 180
To recover and answer as executors,	175
How to administer estate,	176
To give bond &c.	177
— account, and how,	180
<i>De bonis non</i> , may have <i>scire facias</i> ,	ib.
May sue or distrain for certain rents,	205
Estate <i>pur auter vie</i> , assets,	223
See <i>Recognizance on writ of error</i> ,	402
May compel creditors to exhibit claims,	412
To take refunding bond,	ib.
When liable in their own estate,	431
Judgment against, not to affect intestate's lands,	435
To sell lands by order of orphans' court,	ib.
Duty respecting contracts of intestates about real estate,	524
Of constable, to sue for and appropriate certain moneys,	656

	Page.	ALL
ADMINISTRATORS —May obtain order to sell proprietary rights,	689	
How to advertise sale of lands in newspapers,	671	
Survivor to sell the lands,	672	
When they may be sued,	766	
May compel creditors to bring in accounts,	ib.	
Duty where estate is insolvent,	ib.	
When to give additional security,	777	
— ordered to render account,	ib.	
Bond,	778	
To account with, and give security to co-administrator,	779	
How to put out minor's money,	ib.	
Bond, how prosecuted,	784	
How account settled,	786	
To have receipts and discharges recorded,	788	
ADULTERY —Punishment of,	248	
Cause of divorce,	668	
Divorced persons, when guilty of adultery,	ib.	
AFFIDAVIT —When taken by commissioners,	136	
For bail,	404	
Of the due taking of recognizance or bail-piece unnecessary,	538	
When necessary before entering judgment by confession,	685	
AFFINITY —See <i>Marriage</i> ,	180	
<i>Divorce</i> ,	667	
AFFIRMATION —When and how taken,	429	
AFFRAYS —Punishment,	262, 735	
AGENT —For sale of goods manufactured in state prison,	732	
AGREEMENT —Respecting boundary between N. York and N. Jersey,	29	
Respecting boundary between Pennsylvania and N. Jersey,	57, 59	
Respecting land, to be in writing,	152	
AID-DE-CAMP —How many, and how appointed,	712	
ALIENATION —By freeholders, and fines for,	167	
Of land, wrongful, relieved against,	346	
— right of wife, its effect,	347	
ALIENS —See <i>Alien friends</i> ,	35, 96	
Who may hold land and be elected to office,	604	
ALIEN FRIENDS —Mortgages to be valid,	96	
ALIMONY —When and how ordered in chancery,	668	
ALLEGIANCE —Violation of, how punished,	262	
Oath of, and by whom administered,	440	
ALLODIUM —All lands granted by the state allodial,	168	

AQU	ALLOTMENT —Of ditches, drains &c.	Page 128
	AMBOY PERTH —Incorporated,	61
	AMENDMENT —Of order of removal,	46
	In process, pleadings, records &c.	137 to 142
	— declaration, plea &c., on what terms,	421
	— chancery proceedings,	498
	Of constitution of United States,	518, 549
	On appeals in common pleas,	797
	AMERCEMENT —Of sheriff and coroner, for not executing <i>fiery facias</i> and filing inventory,	241
	See <i>Sheriff</i> ,	420, 506
	Account of, to be sent by clerks to treasurer,	451
	To be returned to secretary of state,	504
	APPEAL —From order for removal of pauper,	46
	For crimes abolished,	268
	In cases of taxation,	308, 319
	Commissioners of,	341
	From order of justices respecting warrants,	356-8
	Under act to suppress vice and immorality,	383
	From court for small causes, when allowed and how conducted,	640, 796
	From chancery,	706
	In the borough of Elizabeth,	714
	— cases of wrecks,	717-23
	APPEALS, COURT OF —How constituted, held &c.	393
	Compensation of judges and clerk,	894
	How adjourned,	394
	Secretary of state to be clerk,	400
	To correct errors of supreme court,	402
	Oath of judges,	440
	Fees,	481
	To have original papers on appeal from chancery,	574
	Appeal from chancery,	707
	APPEARANCE —See <i>Practice</i> ,	413
	APPOINTMENTS —In the militia,	586
	APPRAISEMENT —Of damage by swine,	377
	Of damages by beasts &c.	391
	— horses, (See <i>Militia</i> .)	599
	APPRENTICES —See <i>Poor children</i> ,	41
	Embezzling goods &c., how punished,	253
	How bound, treated &c.	366-8
	Who may be sent to work-house, and how main- tained,	443
	Children of disorderly persons to be bound out,	473
	How militia fines paid,	582
	Their age in indenture not conclusive,	669
	AQUACKANUNCK —Bounds,	331

ARBITRATION —Made rule of court, regulated,	Page. 159	ASS
How witnesses subpoenaed and sworn,	654	
ARBITRATORS —To be sworn,	160	
To swear witnesses,	654	
ARGUMENT —On special verdict, by whom moved,	425	
In error, who may move,	426	
ARMS —See <i>Militia</i> ,	595	
ARREST —Of witnesses attending court,	462	
See <i>Militia</i> ,	589	
Of judgment, when and how moved,	423	
costs on,	424	
ARSON —Not triable in sessions,	143	
Not bailable by justice or sessions, nor tried there,	144	
Defendant must have copy of indictment and list of jury and witnesses,	184	
And may challenge peremptorily,	<i>ib.</i>	
Punishment of,	251	
Renders witness incompetent,	462	
How punished in a slave,	736	
Punished by imprisonment in the cells,	739	
ASSAULT AND BATTERY —With intent to rob, commit rape, &c., how punished,	253	
Punishment of,	262, 735	
Limitation of,	410	
Not cognizable before a justice,	629	
With intent to rob, &c., how punished in a slave,	736	
punished by imprisonment in cells,	739	
ASSEMBLY —Representation of Sussex, Burlington, Hunter- don, Cumberland and Cape-May,	292	
Number of members from Essex,	518	
Morris and Cumberland,	572	
Monmouth,	613	
How vacancies are to be filled,	741	
ASSESSMENT —On owners of meadows, drained, &c.	128	
For tax, no replevin lies,	216	
On tavern keepers for license,	283	
Of damages in assumpsit,	423	
ASSESSORS —Duties as judge of election,	274	
If absent from election, substitute appointed,	<i>ib.</i>	
Duties in case of taxation by chosen freeholders,	320	
Appointment, duties, oath,	341	
How to make assessment rolls,	446	
to assess taxes &c.	465	
To take lists of taxable property,	511	
Not to be candidate at election,	741	
Punished for enrolling persons not entitled to vote,	743	
Duty respecting tax on dogs,	756	

ATT	ASSETS —Plea of want of, its effect,	Page 50
	Estate <i>pur autre vie</i> ,	223
	Land sold by order of orphans' court,	436
	ASSIGNMENT —Of trusts, leases, &c. to be in writing,	152
	Of replevin bonds for rent,	216
	— bonds, bills &c.	305
	— choses in action, rights &c. of absconding or absent debtor,	361
	— bail bond,	419
	— debtors, regulated,	674
	— dower, how made,	677
	ASSIGNEE —Their duty under insolvent law, 217 to 223,	263
	May bring suit in his own name on bond &c.	305
	Rights against tenants of land, assigned,	314
	Of debtors, duties, powers, compensation &c.	674
	— insolvent debtor, if he die, another to be ap- pointed,	763
	ASSIZE —Damages recoverable in,	183
	ASSISTING PRISONER TO ESCAPE —Punishment of,	257
	ASSOCIATES —Of Jersey company,	523
	ASSUMPSIT —Assessment of damages in,	423
	ATTACHMENT —Against sheriff and coroners for contempt and disobedience,	241-2
	Against absent and absconding debtors,	355, 733
	See <i>Contempt</i> ,	496
	Under statute to support the jurisdiction of the state,	689
	Notice of issuing,	733
	Lien on the property of absent debtor,	734
	Proceedings where property lies in two counties,	ib.
	— where absent debtor appears,	ib.
	ATTACHMENT WITH PROCLAMATIONS —To be omitted,	501
	ATTENDING PHYSICIAN —Of state prison,	732
	ATTORNEY —May not be special bail,	404
	Who may prosecute and defend suits,	413
	Punishment for mal-practice or mismanagement,	414
	His duties and liabilities, as to the practice,	ib.
	— oath,	440
	— fees and costs,	485
	May be sued before a justice,	643
	What officers may not act as attorney,	646
	Not to be judge of pleas,	688
	Clerks not to act as attorneys,	716
	Surrogate not to act in orphans' court as attorney,	768
	ATTORNEY-GENERAL —To exhibit informations in nature of <i>quo warranto</i> ,	206
	To prosecute forfeited recognizances,	210, 286

	Page.	BAS
ATTORNEY-GENERAL ---To prosecute for debts, fines and forfeitures,	210	
His fees,	486	
To appoint deputies,	557	
A trustee of the school fund,	649	
ATTORNMENT ---When void,	192	
Not necessary to validity of deed,	461	
AUDITORS ---In actions of account,	157	
Duty under attachments,	358	
AUDITOR'S OFFICE ---Books and papers, how kept,	386	
AVOWANT ---In replevin, to have costs,	169	
AVOWRY ---In replevin,	214	
AWARD ---See <i>Arbitration</i> ,	159	
BAIL ---Taken and justified before commissioner,	135-6	
What offenders may give bail before justice or sessions,	144	
Proceedings where insolvent debtor has given bail,	222	
In personal actions and indictments for trespass &c.	239	
How procured and ordered, and who may be,	404	
Special, filing, justification &c.	417	
Bond, and proceedings on,	419	
For what sum special bail liable,	420	
Proceedings against,	<i>ib.</i>	
On <i>habeas corpus</i> to remove cause &c.	424	
BAIL-BOND ---How taken, assigned and defeated,	239	
How taken, kept and prosecuted,	416	
--- assigned and prosecuted,	419	
BAIL-PIECE ---Form,	419	
Affidavit of due taking, not necessary,	538	
BALLOTS ---How used at election,	275	
Election to be by ballot,	744	
BANKS ---Of tide swamps, meadows &c.	529, 655	
BANKS ---Unincorporated, prohibited,	573	
Incorporated, frauds on,	801	
BANK-NOTES ---Counterfeit,	736	
Paper of which they are made,	737	
BANK STOCK ---Taxed,	546	
BASTARDS ---Children, where settled,	38	
Maintenance of,	171	
General issue may be pleaded &c. in suit brought under act for maintenance,	<i>ib.</i>	
Concealing death of,	247	
Pleas of bastardy tried by country,	455	
BASTARD CHILDREN ---See <i>Bastards</i> ,	36, 171, 247	

BON	BATTALION—Court, Paymaster, Independent, formed in Trenton,	Page 580 589 728
	BATTERY—See <i>Assault and battery</i> , 253, 262, 410, 629, 735, 736, 739	
	BEAR-BAITING,	382
	BEASTS—Impounded for trespasses,	367
	BED AND BEDDING—One not to be taken in execution,	651
	BEEF—Repacked for exportation,	514
	BEGGARS—Who, and how to be treated,	48, 473, 763
	BEHAVIOUR—Recognizance for good behaviour,	142
	BERGEN—County, bounds of, 3, 29, 533 Common pleas and sessions, when and where held, 364 Circuit and oyer and terminer, 453	
	BERNARDS—Boundary,	537
	BETS—On gaming, void, 267 On horse-racing, void, 550	
	BILL OF PARTICULARS—When given,	421
	BILL OF EXCEPTIONS—How taken, sealed &c.	293
	BILLS OF EXCHANGE—Inland, 365 Costs on, 666	
	BIRTHS—Registered, certified, proved,	446
	BLANK NOTES—For counterfeiting,	737
	BLANK PROCESS—Not to be issued by justices,	769
	BLASPHEMY—Definition and punishment, 246 Excludes witness, 462 Imprisonment in the cells, 739	
	BLOOMSBURY—Navigation near, not to be injured,	571
	BLOOMFIELD—Boundary,	554
	BLOOD—Corruption of, abolished,	263
	BOATS—How stowed in Cape-May,	231
	BODY—Rule on sheriff to bring in,	416
	BOND—By legatee before he sues for legacy, 50 What void, by statute of frauds and perjuries, 146 Secured by mortgage, when sued defendant may bring money into court, 162 Administrators', form and prosecution, 177 By plaintiff in replevin, assigned and prosecuted, 216 Of sheriff and deputy, 236, 715 Taken by sheriff to bail prisoner, 239	

	Page.	BRE
BOND ---With special condition, how prosecuted and damages assessed,	305	
How assigned and sued, and judgment rendered,	<i>ib.</i>	
By creditors in attachment,	362	
— slave for manumission, when discharged,	375	
— sheriff, limitation of action on,	410	
When claim on it barred,	411	
Refunding, taken by executors and administrators,	412	
Must not contain warrant of attorney,	415	
For costs, by non-resident,	423	
Of treasurer,	427	
To pay costs, when filed in chancery,	495	
Of clerk in chancery,	521	
— clerk of supreme court,	<i>ib.</i>	
— paymaster,	582	
On plea of title,	639	
Of constable,	645	
For prison limits, when forfeited,	651	
By owner of fishery, to secure penalties,	653	
— captain of vessel who lands foreign passengers,	655	
For forthcoming of goods where lands are first sold,	671	
With warrant, entry of judgment on,	685	
Of clerk of pleas and sessions,	714	
— township collector,	724	
— absent debtor, when he appears on attachment,	733	
— administrators and guardians, how and for what prosecuted,	777, 785	
— surrogate,	<i>ib.</i>	
— insolvent, under repealed insolvent law,	793	
BOOKS OF SURVEYS ---See <i>Surveyor-General</i> ,	17	
BOROUGH ---Of Princeton, incorporated,	561	
Of Elizabeth, trial of appeals,	713	
BOUNDS OF PRISON ---Laid out,	426	
What breach of,	651	
BOUNDARY ---Settled by certificate of parties recorded in line-book,	81	
Of counties and townships ascertained and recorded,	353	
Eastern, of Bergen and the state,	3, 29, 533	
Of New-Jersey, on the Delaware,	57, 59, 794	
— counties,	3, 5, 6, 18, 19, 20, 21, 24, 107	
— townships,	25, 56, 123, 133, 134, 270, 271, 287, 315, 316, 331, 332, 394, 504, 509, 510, 513, 518, 520, 526, 527, 529, 539, 544, 554, 559, 661	
BRAND ---Of beef and pork,	515	
BREACHES ---How assigned on bonds with special condition and damages assessed,	305	
BREACHES OF THE PEACE ---Process for, served on Sunday,	391	

		Page.
BYS	BREAKING PRISON— Punishment,	257
	BREAKING HOUSE— With intent to kill &c.	253, 738
	BREBBERY— Definition and punishment,	250
	BRIDGES— What to be built and repaired on highways,	22
	In Bergen, draws not to be left open,	235
	How built and repaired,	385
	Toll and chain, how passed, &c.	600, 672
	Across mill-dams, races &c.	623
	BRIDGEWATER— Boundary,	527
	BRIGADES— Organized,	575
	BRIGADE BOARD,	584, 595
	To assess fines on officers,	710
	Whom they may exempt,	711
	To keep accounts,	712
	BRIGADE INSPECTOR,	580
	When to make returns to adjutant-general,	712
	BRIGADE JUDGE-ADVOCATE— To return officers' fines to paymaster,	710
	BRIGADE PAYMASTER,	583
	To collect fines of officers,	710
	BRIGADE STAFF— How appointed,	712
	BRITISH STATUTES— Of no authority,	726
	BROCAGE— Rate of established,	270
	BULL-BAITING,	382
	BURGLARY— Not bailable by justice or sessions,	143
	Not to be tried in sessions,	143
	Defendant to have list of jury and witnesses,	184
	— may challenge peremptorily,	165
	Definition and punishment,	251
	How punished in a slave,	736
	Imprisonment in cells,	739
	BURLINGTON— County, bounds of,	3
	City, incorporated,	70
	County, representation in assembly,	299
	— when courts held,	364, 454, 504
	— certain judgments to be entered,	510
	— to build work-house,	558
	BURNING— Public buildings &c., punishment,	251
	BYRAM— Bounds,	315
	BY-ROADS— See <i>Roads</i> ,	626
	BY-STANDERS— At trainings,	593
	How punished for disorderly conduct,	711

	Page.	CHA
C. C. C.—Return of, its effect,	420	
CALDWELL—Bounds,	331, 559	
CANDIDATES—How nominated &c.	273	
Having equal votes, a new election,	740	
Not to be judges of election,	741	
CAPE-MAY—Bounds of,	3	
Boats stowed in the road,	231	
Representation of,	299	
Courts when held,	364, 454	
Townships to elect three surveyors,	725	
CAPIAS PRO-FINE—Abolished,	171	
CAPIAS AD RESPONDENDUM—Regulated,	416	
In suit for penalty under act, regulating fisheries in Delaware,	654	
CAPIAS AD SATISFACIENDUM—If debtor die while confined on <i>ca. sa.</i> execution may go against his estate,	265	
Endorsement,	424	
CATTLE—How to be marked,	746	
CAVEAT—See <i>Roads</i> ,	615	
CELLS—Who sentenced to,	739	
CERTIFICATE—Of residence by pauper,	40	
Of boundary by parties, recorded &c.	81	
— records &c. disproved in error,	137	
— reasonable cause by judge, to give costs,	169	
To authorize marriage of minor,	181	
Of election,	277	
— manumission,	374	
— free negroes,	375	
— judge, that title came in question,	666	
CERTIORARI—In forcible entry and detainer,	352	
Not to issue under act respecting apprentices and servants,	368	
Not to issue under act to suppress vice and im- morality,	383	
To remove indictments and orders from justices and sessions,	406	
Void, unless signed by justice of supreme court,	408	
To be delivered in open court in certain cases,	<i>ib.</i>	
Error in costs, not available on certiorari,	557	
To court for small causes,	642	
Within what time to be allowed,	692	
What it removes from orphans' court,	787	
When not to issue to court for small causes,	796	
CHAIN BRIDGE—How to be passed,	600, 672	
CHALLENGE—Peremptory, by criminal,	184	
Right of state to challenge,	<i>ib.</i>	

	Page
CHO	
CHALLENGE —When and how made and tried,	310
To judge when made, and how tried,	632
CHALLENGING —To fight,	259
CHANCELLOR —See <i>Mortgage</i> ,	162
See <i>Chancery</i> ,	165
Duty on <i>habeas corpus</i> ,	193
Oath,	440
CHANCERY —Decree before hearing, on bill to foreclose,	162
Abatement and revival of suits on death of party,	165
Costs on dismissing bill of complaint,	171
Decrees to be in dollars, dimes and cents,	446
Fees and costs,	483
Practice regulated,	494
Seal of,	613
When to decree divorce,	667
Duty under act to preserve jurisdiction of state,	687
Concerning idiots and lunatics,	696
When held, proceedings,	702
Proceedings against absent defendants,	703
Examination of witnesses,	<i>ib.</i>
To direct money brought into court to be invested in stock &c.	704
On what terms to grant injunction after verdict and judgment,	<i>ib.</i>
Process, sale of mortgaged premises, appeal,	705
CHARGE —See <i>Poor</i> ,	35 to 49
CHATHAM —Bounds,	526
CHEATS —Punishment,	262, 735
CHESTER —In Morris, bounds,	394, 527
In Burlington, bounds,	504
CHILDREN, POSTHUMOUS ,	608
CHOSEN FREEHOLDERS —Duty in draining meadows &c.	128
Duty respecting money arising on tavern licenses,	284
Incorporation, powers, duties,	317
Appointment &c.	341
Duty in ascertaining boundaries of counties and townships,	353
Duty respecting bridges,	395
ferries,	408
work-houses,	443
In what money to keep accounts,	446
To apply for special oyer and terminer,	455
— establish markets for live-stock,	522
Duty respecting mile-stones and posts,	626
Term of office,	655
Moneys to be accounted for to them,	694
Certain property vested in them,	<i>ib.</i>

CHOSEN FREEHOLDERS —When may adjourn,	Page. 694
Sell lands and build poor-houses,	695
Duty on vacancy in assembly or council,	741
— respecting distribution of the laws,	754, 771
CIRCUIT COURT —By whom, when and where held, and	
proceedings in,	453, 503
Who to be clerk,	455
To return proceedings to supreme court,	<i>ib.</i>
Award <i>tales de circumstantibus</i> ,	<i>ib.</i>
Fees,	487
Not to be held twice in succession by same judge,	800
CITATION —By ordinary, how enforced,	178
CLAIM —To goods taken in execution,	636, 672
CLAMS —How preserved, taken, sold &c.	757
In Navesink,	758
— Gloucester,	<i>ib.</i>
CLERKS —To record certificate of boundary,	31
Misprisions amendable,	137
To keep books of marriages,	182
— file bond and oath of sheriff,	237
— advertise a new election of sheriff,	238
Duty as to elections,	273-6
— tavern licenses,	284
Of chosen freeholders, duties &c.	317
— town-meetings,	341
Duty in attachment,	*355, 733
Of common pleas to record township lines,	355
Who to be clerk of court of appeals,	394
To sign process,	415
Of courts to make lists of causes for trial,	423
— how to file pleadings,	<i>ib.</i>
— make up records,	<i>ib.</i>
As to rules of practice,	426
Duty respecting depositions,	437
— respecting official oaths,	441
— where juror refuses oath of allegiance,	442
Oath,	443
Of townships to register births and deaths,	446
Duty respecting amercements, fines &c.	451
Of circuit, who to be,	456
Duty respecting defaulting jurors,	<i>ib.</i>
— recording deeds and mortgages,	460
To deliver records &c. to successor,	461
— record and enter discharge of mortgages,	463
Fees,	482, 486, 487, 490, 491, 512
To tax costs,	493
In chancery, to pay fines to treasurer,	500
To return duplicate of fines to secretary,	501
— remove papers to public offices,	503
In chancery and supreme court, to give bond,	521

COL		Page
	CLERKS —In chancery and supreme court to reside in Trenton, and set up copies of fees,	521
	Of Bergen, to appoint deputy on Horsimus Island,	523
	On Horsimus Island,	ib.
	Duty under act for electing electors and members of congress,	534
	Of supreme court, not to administer oath of due taking of recognizance,	538
	— chancery and court of appeals, how to prepare papers on appeal,	574
	— Trenton sessions, duties,	607
	Duty relative to roads,	615
	To keep docket of justice after his death,	640
	Costs on appeals,	646
	Duty under act for gradual abolition of slavery,	682
	How to record judgments by confession,	685
	Not to act as judges of common pleas,	688
	In militia company,	710
	— borough of Elizabeth, to give bond &c.	714
	Of pleas and sessions, to record sheriffs' bonds,	715
	— to surrender office and papers to successor,	ib.
	Not to be surrogates,	716
	— practice as attorney in his own county,	ib.
	Of assembly, to deliver laws to secretary of state,	727
	— common pleas, duty where candidates have equal votes,	740
	To print and distribute part of election law,	744
	Of townships to provide election boxes,	ib.
	— sessions, to lay list of tavern keepers before grand jury,	746
	To make index to deeds,	751
	Duty in publishing and distributing public laws,	752
	— entering satisfaction on judgment,	760
	Of orphans' court to draw costs,	787
	Duty in elections for members of congress and electors,	798
	See <i>Town-clerk</i> .	
	CLERGY —Benefit of, abolished,	263
	COGNIZANCE —See <i>Replevin</i> ,	214
	COHANSEY CREEK —Fishery regulated,	662
	COIN —Counterfeiting it,	738
	COLLECTOR —Of township, duty in elections,	274
	Of township, duties in taxation by chosen freeholders,	320
	— county to receive fines for larceny under \$20,	337
	— township, appointment &c.	341
	Duty in collecting taxes,	465
	Of township, to give bond &c.	724
	— county, when to pay costs on criminal prosecution,	730

	Page.	COM
COLLECTOR —Of township, not to be candidate at election,	741	
Of township, punishment for enrolling person not entitled to vote,	743	
— county, duty in distributing public laws,	752, 770	
COLLEGE —Of New-Jersey, charter confirmed,	448	
Queen's,	450	
Students in colleges and schools not to be entertained at taverns &c.	532	
COMMANDER IN CHIEF —To order out militia,	589	
To publish rules of discipline,	592	
— and distribute militia act,	596, 712	
COMMERCE —Acts restraining, repealed,	54	
See <i>Amboy</i> and <i>Burlington</i> ,	61, 70	
COMMISSION OF REBELLION —To be omitted,	501	
COMMISSION OF MILITIA OFFICERS ,	577	
COMMISSIONERS OF APPEALS —In cases of taxation,	308	
Appointment &c.	341	
COMMISSIONERS —To take bail and affidavits in supreme court,	135	
To ascertain township and county lines,	353	
— take depositions,	437, 546	
— divide land, duty where partition cannot be made,	597	
Fees,	ib.	
To assign dower,	677	
Respecting navigation of Delaware,	708	
Of wrecks,	717	
To take acknowledgments, oath &c.	748, 789, 792	
— divide land by order of orphans' and prerogative court,	780	
Duty when land cannot be divided,	ib.	
To settle dispute with the state of Delaware,	794	
COMMITTITUR —On surrendering body by sheriff,	417	
COMMON INFORMERS —Suits by,	405	
COMMON PLEAS —Jurisdiction in case of insolvent debtors,	216	
Duty in taking bond of sheriff,	236, 303	
Award attachment against sheriff and coroners,	242	
To strike juries,	313	
— appoint commissioners to ascertain township lines,	353	
When and where held,	364, 532, 660	
Jurisdiction respecting slave trade,	373	
Errors to be corrected by supreme court,	402	
Duty as to prison bounds,	426	
Send process for witnesses to other counties,	462	
Duty respecting taxes,	465	
Costs,	489	

CON		Page
	COMMON PLEAS —Duties under acts to regulate fishery in Delaware, 541, 569, 653, 659	
	To award tales,	604
	Duty respecting roads,	615
	— on appeals from justices,	640, 796
	Their costs on appeals,	646
	See <i>Act for gradual abolition of slavery</i> ,	679
	Clerk to give bond,	714
	Duty respecting wrecks,	717
	— on appeals,	796
	COMMON RECOVERIES —See <i>Statute of frauds and per- juries</i> ,	151
	Abolished,	475
	COMPANY —See <i>Militia</i> ,	576
	Court,	580
	COMPENSATION —Of auditors in action of account,	157
	Of referees,	159
	— officers of election,	277
	— judges of court of appeals,	394
	For holding circuit courts,	456
	To judges and masters sitting in chancery,	499
	COMPOUNDING CRIMES ,	259
	COMPILED LAWS —How distributed, deposited &c.	770
	CONCEALMENT —Of pregnancy and death of bastard child,	247
	Of thieves &c.	261
	CONFESSION OF JUDGMENT —How entered of record,	685
	CONFECTIONERS —Not to entertain scholars &c.	532
	CONFISCATION —Of fugitives estates,	52, 54, 60
	CONGRESS —Election of representatives and filling vacan- cies,	534
	CONSANGUINITY —See <i>Marriage</i> ,	180
	<i>Divorce</i> ,	667
	Ground of challenge to a judge,	686
	CONSENT RULE —In ejectment,	425
	CONSOLIDATION OF ACTIONS ,	421
	CONSPIRACY —Definition and punishment,	258
	Excludes witness,	462
	CONSTABLE —Serving warrant from another county, en- dorsed,	145
	Duty respecting fire in woods,	146
	— in distress for rent,	199
	To summon jury for inquisitions of death,	232
	Duty under riot act,	280
	— in taxation by chosen freeholders,	320

CONSTABLE —Appointment &c., oath &c.	Page. 341	CON
Duty in taking up slaves, repressing disorderly meetings,	370	
Duty under act to suppress vice and immorality,	378	
— in collecting taxes,	465	
— respecting disorderly persons,	473	
Costs,	493, 512, 772	
Duty under act to support jurisdiction of state,	533	
In Trenton,	538	
Duty in preserving navigation of Delaware,	571	
— in collecting militia fines,	581	
— and liabilities under act constituting courts for small causes,	629	
Bond for performance of his duties,	645	
Not to act as attorney,	646	
Their costs in court for small causes,	<i>ib.</i>	
When and how their sureties may sue,	656	
To prevent disturbance at religious worship,	664	
When to pay rent, before he removes goods,	666	
Of Elizabeth,	714	
Duty in preserving clams and oysters,	758	
Under poor laws,	764	
Is officer of orphans' court,	787	
CONSTITUTION OF UNITED STATES —Convention to ratify appointed,	82	
Convention to ratify amendments,	94	
Amendments of,	518, 549	
Of New-Jersey,	iii	
— United States,	xiii	
CONTAGIOUS DISEASES —Introduction of	502	
— into Perth-Amboy,	555	
CONTEMPT —In disobeying injunction,	496, 500	
In officer not serving process,	<i>ib.</i>	
CONTRACTS —What must be in writing,	152	
For gaming, void,	267	
— usury, void,	269	
— lottery tickets, void,	272	
By slave for manumission, when discharged,	375	
Respecting land, by testators and intestates, how executed,	524	
Horse-racing,	550	
CONVENTION —To ratify constitution of United States, and amendments,	82, 94	
CONVEYANCE —Made by letters of attorney,	8	
Proof of, from Great-Britain, Ireland and colonies,	<i>ib.</i>	
Conveying use of lands,	9	
Lost, how supplied,	55	
Void under statute of frauds,	148	

		Page
COS	CONVEYANCE—To be construed as if lands held in free and	
	common soccage,	167
	For lands in Delaware river,	
	By husband and wife,	347
	— auditors in attachment,	361
	— guardians,	402
	— sheriff for lands sold,	433
	— executors and administrators,	436
	Acknowledged, proved and recorded,	458, 792
	Attornment not necessary to its validity,	461
	What, to be recorded in manner of mortgages,	463
	For land on Horsimus Island,	523
	By commissioners appointed to divide land,	597
	— guardian of idiot and lunatic,	696
	When recorded, and its effects,	747
	How acknowledged in another state,	ib.
	CONVICTION—When second, punished capitally,	263
	CONVICTS—Who to be sent to state prison,	244, 735, 738
	Not to be imported,	266
	COPARCENERS—Their lands divided,	89
	Proceedings in waste,	209
	Compelled to make partition, and how,	299
	Allotment where partition of lands cannot be made,	597
	COPY—Of account, when to be delivered,	421
	Of deed, when evidence,	458
	CORONERS—May act before commission is received, but	
	must apply for it in a month,	54
	Number, oath and duties,	231
	When to serve process for sheriff,	236
	Attached for not serving process,	241
	Duty respecting slave trade,	373
	Costs,	491
	When to serve process in chancery,	495
	How to return process,	693
	CORPORAL PUNISHMENT—On whom inflicted,	262
	CORPORATION—How answerable to creditors,	610
	May be sued before a justice,	773
	CORRUPTION OF BLOOD—Abolished,	263
	COSTS—See Poor,	40, 41, 45, 46, 47
	On suit for legacy,	50
	— partition by order of orphans' court,	93
	— judgment by confession in open court,	135
	— mandamus,	161
	What, and when recovered,	168 to 171
	_____ in suits on bastardy	
	act,	173
	Where justices put landlord in possession,	191

	Page.	
COSTS---On <i>quo warranto</i> ,	206	COU
In replevin,	212	
Trial of insolvent debtor,	220	
Of partition,	302	
On appeal, in cases of taxation,	309	
When not given in supreme court,	<i>ib.</i>	
Of struck jury,	313	
— criminal prosecutions,	331	
In forcible entry and detainer,	352	
On attachment,	355	
Under act for suppressing vice and immorality,	384	
Not to be paid by poor parties,	393	
In penal actions,	405	
— criminal prosecutions,	406	
Taxation of,	414, 493	
On executing writ of inquiry,	423	
• Bond for, by non-resident plaintiff,	<i>ib.</i>	
On arrest of judgment,	424	
Security for, in ejectment,	425	
On commissions to take depositions,	437	
Of recording deeds, mortgages &c.	463	
Taxed and re-taxed,	493	
In chancery,	494	
When bond to pay, must be filed in chancery,	495	
In chancery, when discretionary,	501	
Error in, not cause of reversal in certiorari,	557	
On certiorari,	642	
In court for small causes,	646	
Act to prevent unnecessary costs,	657	
Where certificate that title to land came in question,	666	
On suit removed by <i>habeas corpus</i> ,	<i>ib.</i>	
Indemnity for, in certain suits in chancery,	669	
On assignments of dower,	677	
— judgments by confession,	685	
Of criminal prosecutions, how paid,	730	
How recovered out of criminal's estate,	731	
In orphans' court, what, how taxed, drawn &c.	787,	
	789	
COUNCIL---Vacancies supplied,	741	
COUNSEL---Assigned to criminals,	184	
Fees of,	482	
COUNSELLOR---Punishment for mal-practice,	414	
Oath,	440	
COUNTERFEITING---See <i>Notes counterfeited &c.</i>	736	
<i>Coin,</i>	738	
COUNTERMAND---Of notice of trial,	422	
COUNTS---Superfluous, struck out,	421	
COUNTY---Bounds of,	3, 5, 6, 18, 19, 20, 21, 24, 107	

COU	COUNTY—Counties adjoining rivers, roads &c. have mutual jurisdiction,	Page
	Two or more may unite in building poor-house,	292
	Lines ascertained,	323
	Two or more may unite in building work-house,	365
	Liable for tax squandered by collector,	445
	COUNTY COLLECTOR—To receive fees on tavern licenses,	470
	When and how elected, to give bond &c.	284
	Duty in taxations by chosen freeholders,	321
	To keep accounts in dollars &c.	322
	Duty under act concerning taxes,	445
	— respecting fishery and navigation of the Delaware,	465
	Duty in collecting tax on steam-boat passengers,	541
	To pay costs on certain criminal prosecutions,	657
	— receive fines for larceny under § 20,	730
	Duty in distributing public laws,	737
	— under act for preservation of clams and oysters,	752, 770
	COURT MARTIAL,	751
	COURTS—Proceedings to be in the English language,	593
	Duty respecting poor persons who are parties,	141
	To re-tax costs,	395
	COURT FOR SMALL CAUSES—Not affected by practice act,	426
	Constituted, established &c.	629
	See <i>Appeals</i> and <i>Certiorari</i> ,	796
	COURT OF OVER AND TERMINER—See <i>Oyer and terminer</i> ,	455
	COURT, SUPREME—See <i>Supreme court</i> .	
	COURT OF APPEALS—How constituted and where held,	393
	Secretary of state to be clerk,	394
	Adjourned,	400
	To correct errors of supreme court,	402
	Oath of judges,	440
	Fees,	481
	To have original papers out of chancery,	574
	Appeal from chancery,	707
	COURT OF CHANCERY—Decree before hearing on bill to foreclose,	162
	Abatement and revival of suits,	165
	Costs on dismissing bill,	171
	Decrees to be in dollars &c.	446
	Fees and costs,	483
	Practice regulated,	494
	Seal of,	613
	When to decree divorce,	667
	Duty under act to preserve jurisdiction of state,	689
	— respecting idiots and lunatics,	696
	When held, and proceedings,	762

	Page.	CRI
COURT OF CHANCERY —Proceeding against absent defendants,	703	
Examination of witnesses,	<i>ib.</i>	
To direct money brought into court to be invested &c.	704	
To grant injunction after verdict and judgment,	<i>ib.</i>	
Process,	705	
Sale of mortgaged premises,	<i>ib.</i>	
Appeal,	<i>ib.</i>	
COURT OF COMMON PLEAS —See <i>Common pleas.</i>		
COURT OF QUARTER SESSIONS —See <i>Sessions.</i>		
COVENANT FOR RENT —Limitation in,	411	
COW —One to be left for debtor, and not sold on execution,	651	
CRANBERRIES —When and by whom gathered,	89	
CREDITORS —If alien friends, mortgages good,	96	
Relief where debtor escapes or dies in prison,	265	
Proceedings against heirs and devisees,	291	
Relief against absent and absconding debtors,	355	
To exhibit demands against executors and administrators,	412	
Relief against corporations,	610	
How to sue where debtor has no personal property,	644	
Secured from fraudulent assignments,	674	
Who may present claims, and how compelled, to executors and administrators,	766	
When to apply to orphans' court for sale of lands,	782	
CREEKS —Obstruction to navigation by bridges &c.	22	
To be opened for draining meadows &c.	128	
CRIMES —Committed on the Delaware, where triable,	58	
What tried in sessions,	144	
Definition and punishment,	244 to 264, 738	
In what, second offence punishable with death,	263	
Committed on rivers, roads &c. between counties, where tried,	292	
Where and how punished,	325, 738	
Punishment of, certain,	735	
Punishable by imprisonment in cells,	738	
CRIMINALS —To have counsel,	184	
Right of challenges,	<i>ib.</i>	
When considered as pleading not guilty,	<i>ib.</i>	
Standing mute, how treated,	<i>ib.</i>	
When entitled to writ of error,	186	
Within what time to be indicted and tried,	196	
Discharge not to affect civil suit,	<i>ib.</i>	
Removed from one officer to another,	197	
When to be sent to another state for trial,	198	
Of whom court require security for the peace,	263	

DEB

CRIMINALS —Treatment in state prison,	Page 323
Reward for apprehending,	330
Who sentenced to work-houses,	443
In Princeton, where committed,	569
Expenses for bringing from another state,	652
Under United States, how to be received and kept,	457, 659
Their estate bound by judgments for costs,	731
When to be whipped,	738
CRIMINAL PROCESS —May be served on Sunday,	351
CROPPING —Sheep and cattle prohibited,	746
CRUEL TREATMENT OF SLAVES	372
CRUELTY EXTREME —Cause of divorce,	665
CRYER —Costs,	492
— on appeals,	646
Fees in orphans' court,	789
CUMBERLAND —Bounds of,	19, 24
Circuits and oyer and terminer, when held,	153, 455
Representation of,	299, 572
Common pleas, when held,	532
CURRENCY —Regulated,	446
CURSING —Punishment,	362
CURTESY —Not affected by law concerning descent of lands,	609
DAMAGES —On <i>mandamus</i> ,	160
In assize and real actions,	183
For pound breach or <i>rescous</i> of distress,	200
In waste,	208
On bonds with special condition,	305
Where one count is bad,	314
— assessed by the court,	423
Endorsed on <i>capias ad satisfaciendum</i> ,	424
DEATH —Crimes punishable with, not triable in sessions,	143
Of party, its effect on the action,	163, 166
How inflicted,	263
When second offence punishable with death,	3
Of debtor in prison,	265
Presumed after seven years absence,	288
Does not abate attachment,	362
Deaths registered,	446
Sentence of, suspended,	796
DEBT —Of fugitives,	52, 54, 60
Contracted before June 13, 1781, how settled,	59, 61
Action against tenant for life,	186
Limitation in,	410

DEBT ---Endorsed on <i>capias ad satisfaciendum</i> ,	Page. 424
Not discharged by appointment of debtor to be executor,	573
In what cases the action must be debt,	643
Preferred,	766
DEBTOR ---May personally appear and confess judgment,	135
Insolvent, proceedings by and against,	216, 223, 262
How kept and imprisoned by sheriff,	241
Escaping or dying in prison, estate liable,	265
Absconding and absent, (See <i>Attachment</i> .)	355
How answerable in attachment,	362
Not discharged by being appointed executor,	573
How sued where no personal property,	644
Assignment for benefit of creditors,	674-6
Insolvent, estate distributed by executors and administrators,	766
DECLARATION ---By insolvent debtors,	216
Where some counts bad, verdict may be good,	314
Filing of,	420, 691
By the bye not allowable,	421
In ejectment, service,	425
When to be filed,	691
DECLARATION OF INDEPENDENCE ,	ix
DECEITS ---Punishment,	262, 735
DECREES ---Before hearing, on bill to foreclose,	162
To be in dollars, dismes and cents,	446
In chancery, effect of,	499
DEED ---Made by letter of attorney,	8
Evidence of, from Great-Britain, Ireland and colonies,	ib.
Conveying use of land, the effect of,	9
Lost, how supplied,	55
What void, under statute of frauds and perjuries,	148
To be construed as if lands held in free and common soccage,	167
For gaming contract, void,	267
— usurious contract, void,	269
— lottery, void,	272
— lands in Delaware river, how recorded and given in evidence,	294
By husband and wife,	347
— auditors in attachment,	361
— guardians,	402
— sheriff for land sold,	433
— executors and administrators,	436
Acknowledgment, proof, record, evidence,	458, 748
	792
Attornment not necessary to its validity,	461
Effect of warranty by tenant for life,	ib.

		Page
DEV	DEED---Collateral warranty, as against heirs,	461
	What recorded in manner of mortgages,	463
	On Horsimus Island, how recorded,	523
	By commissioners, for division of land,	597
	Of manumission,	679
	By guardian of idiot and lunatic,	696
	When recorded, and its effect,	747
	How acknowledged in another state,	748
	DEER---See <i>Game</i> ,	26, 29
	When to be killed,	673
	DEFEAZANCE OF BAIL BOND,	239
	DEFENDANT---In custody, how served with process,	421
	Non-resident, to give security for costs,	423
	DEFENCE OF FRONTIERS,	595
	DELAWARE BAY---Jurisdiction over,	794
	DELAWARE STATE---Dispute with,	ib.
	DELAWARE RIVER---Agreement between Pennsylvania and New-Jersey respecting,	57, 77
	Deeds for lands in, recorded and given in evidence,	292
	Fishery and navigation,	541, 569, 653, 659
	Navigation to be preserved,	571, 708
	How erections in, to be made,	ib.
	Commissioners appointed,	ib.
	DEMAND, STATE OF---See <i>Court for small causes</i> ,	629
	DEMURRER---Defects in form, how regarded,	140
	See <i>Mandamus</i> ,	160
	Costs on,	170
	Judgment for not joining in,	422
	Book not to be made up,	ib.
	Who may move argument on,	ib.
	To evidence,	425
	DEPOSITION---How taken &c.	437, 546
	How taken in court for small causes,	643
	DEPUTIES OF ATTORNEY-GENERAL,	557
	DESCENT OF REAL ESTATE,	606, 774
	Not prevented by conviction of ancestor,	263
	DESERTION---See <i>Militia</i> ,	592
	Obstinate, cause of divorce,	668
	DETINUE---Verdict omitting price, or part of thing, count- ed for,	314
	Limitation of,	410
	DEVISE---Made in Great-Britain and colonies, how certified,	8
	Words necessary to create fee,	60

	Page.
DEVISE ---To be construed as if lands held in free and com-	
mon soccage,	167
Of estate for life,	223
How revoked,	224
To witness void,	ib.
— two or more executors to sell, how executed,	226
See <i>Real estate</i> ,	774
DEVISEES ---How liable for testator's debts,	291
DIRECTOR OF CHOSEN FREEHOLDERS ,	318
To sue collector and clerk for not distributing public laws,	754
DISCOUNT ---See <i>Mutual dealers</i> ,	307
<i>Promissory notes</i> ,	396
DISCHARGE ---What to be recorded by surrogate,	788
DISCIPLINE ---See <i>Militia</i> ,	592
DISEASES, CONTAGIOUS ---Introduction of,	592
Introduction of into Perth-Amboy,	555
DISOBEDIENCE OF OFFICERS ,	591
DISORDERLY PERSONS ---Who, and how punished,	473, 763
Children of, bound out,	474
DISQUALIFICATION FOR OFFICE ---See <i>Habeas corpus</i> ,	198
DISSEIZOR ---See <i>Assize</i> ,	183
When right of entry taken away,	348
DISTRESS ---Proceedings in,	199 to 206
For penalty under statutes,	ib.
— tax, assessment or fine not to be replevied,	216
Warrant for taxes,	465
For fine of defaulting juror,	456
DISTRIBUTION OF INTESTATE'S ESTATE ,	178
DISTRIBUTIVE SHARE ---How determined,	179
Bond to refund,	50, 412
DISTRINGAS ---For jurors,	312
DISTRICT JUDICIARY ---Repealed,	795
DIVORCE ---When decreed in chancery,	667
DOCKET ---Of justice in forcible entry and detainer,	352
How kept,	641
Deposited after his death,	ib.
DOCTORS ---See <i>Physicians</i> ,	628
DOGS ---Taxed &c.	754
When to be killed,	756
Damage done by, ascertained &c.	ib.
DOVER ---Its boundary,	25

ELI

	Page
DOWER —Not barred by conviction of husband for crime,	233
Alienation of, when void,	347
What, how regulated and barred,	386
When execution stayed in error,	401
—— partition cannot be made, and land is sold,	599
Not affected by act for descent of lands,	606
Assignment and bar,	677
DRAWS ---In certain bridges, not to be left open,	235
DREDGE ---Not to be used in taking clams and oysters,	757
DRUNKENNESS ---Conviction of, renders tavern license void,	287
Punishment,	382
When and how children of common drunkard may be bound out,	474
DULL ,	259
DUTCH CONGREGATIONS ---Incorporated and regulated,	475
EAST WINDSOR ---Bounds,	271
EDUCATION OF SLAVES ,	372
EJECTMENT ---For rent arrear,	189
Tenant must notify landlord, who may be admit- ted defendant,	193
See <i>Writ of error</i> ,	401
Limitation,	411
Proceedings in,	425
ELECTORS ---Of president and vice-president, when and how chosen, duties &c.	106, 534
When appointed,	265
Vacancies, how filled,	799
ELECTION ---Of members of assembly, sheriffs &c. regu- lated,	273, 303
Of county collector,	321
— township officers,	342
For electors, members of congress &c.	534, 798
Of militia officers,	528
If candidates have equal votes, second election,	740
Officers of, not to be candidates,	741
Who have a right to vote,	ib.
Where voters are to vote,	742
When poll opened and closed,	743
Penalty on officers for misbehaviour,	ib.
Oath of officers,	ib.
To be by ballot,	744
ELECTION BOX ---How provided, robbery of, &c.	743
ELIZABETH ---Borough incorporated,	97, 104
Charter in part repealed,	525
Bounds of,	520, 539
Trial of appeals in,	713

INDEX.

849

	Page.	EST
EMBRACERY —Definition and punishment,	250	
EMBEZZLING —By servants, definition and punishment,	253	
ENDORSEMENT —On <i>ca. sa.</i>	424	
ENGLISH LANGUAGE —Judicial proceedings to be in it,	141	
ENTAILS —Nature and operation,	774	
ENTERING HOUSE —With intent to rob &c.	253	
ENTRY —When right of, taken away,	346	
See <i>Limitation</i> ,	411	
ENTRY OF SATISFACTION —Of judgment, how made,	760	
EQUITY OF REDEMPTION —When barred,	412	
ERROR —Variance between writ and record amendable,	141	
Death of party between verdict and judgment,	166	
Time necessary between teste and return of cer- tain writs,	<i>ib.</i>	
Costs in,	170	
See <i>Force and arms</i> ,	185	
For miswriting, false English &c. in indictments,	<i>ib.</i>	
When writ is of right or of grace,	186	
In detinue,	314	
By reversioner or remainder-man,	348	
Writ of, in dower,	400	
How rectified,	402	
See <i>Special bail</i> ,	424	
Where writ of, stays execution on second judg- ment,	<i>ib.</i>	
When pleadings to be filed,	426	
Who may move argument,	<i>ib.</i>	
Writ of, when to be returned,	<i>ib.</i>	
Reversal of judgment for error, not to affect lands sold under the judgment,	434	
Writ of, not allowable to court for small causes,	642	
——, within what time to be allowed,	692	
——, when stay of execution,	693	
ESCAPE —What, and how sheriff liable,	156, 243	
In criminal cases,	256	
From prison,	263	
Of debtor, its effect,	265	
ESSEX —Bounds,	3, 18	
When courts held,	153, 364, 455	
Representation of,	518	
When January term of common pleas to be held,	660	
ESSOIN —Abolished,	183	
ESTATES —Words creating fee simple, by devise,	60	
Created by parol or livery of seisin, to be at will, except certain leases for three years,	151	

EXE		Page
	ESTATES — <i>Per auter vie</i> , rent on, recovered, 187 <i>Per auter vie</i> , how devised and made assets, 223 In fee simple, nature and operation, 774 Fee tail, 2.	
	ESTRAYS —Regulations concerning,	288
	EVESHAM —Bounds,	504, 518
	EVIDENCE —Record or transcript of deeds and wills, 8, 461, 789 Record of surveys, 17 Books of marriage, 182 Treason not charged in indictment, 184 Retaking on fresh pursuit on escape, 243 Deed of land in the Delaware, 294 At view, 312 By jurors, 314 Papers read, to be taken out by jury, 3. Exemplification of bonds of keeper of state prison, 325 Demurrer to, 425 Record of execution, 432 Examinations and depositions, 437 See <i>Register of births and deaths</i> , 446 Acknowledgment and proof of deeds, 458, 748, 792 Witnesses excluded from, by crimes, 463 See <i>Libel</i> , 475 Printed laws to be read, 546 See <i>Deed of manumission</i> , 660	
	EXAMINATION —Of criminals, how taken, 144 Of mother of bastard child, 172 — witnesses by commissioners, 437, 546 — in chancery, 703	
	EXAMINER IN CHANCERY —Fees,	482
	EXCEPTIONS —To bail, 135, 239, 404, 417, 419 Bills of, how taken, sealed &c. 293 To bail, on <i>habeas corpus</i> , 425	
	EXCHANGE —Bills of, how endorsed, prosecuted &c. 395 Costs on recovery on bills of, 666	
	EXECUTION —If debtor escape or die in prison, second execution may issue, 265 If sheriff die after levy, who shall sell &c. 303 When stayed by writ of error, 401 On second judgment, where writ of error on the first, 424 Endorsement on <i>ca. sa.</i> 2. What, and how, bind lands and goods, 431 Regulations respecting, 431-7 Against proprietary rights, 434 — officers in default for tax, 472	

	Page.	EXE
EXECUTION —From chancery, and how it binds goods,	499	
For military fines,	582	
How issued, served &c.	636	
When to issue on second judgment,	645	
Not to take one cow, bed and bedding,	651	
Rent to be paid before goods removed,	187, 666	
When lands may be sold before goods,	671	
How advertisement of sale to be made,	<i>ib.</i>	
— stayed by writ of error,	693	
EXECUTOR —When to pay costs on suit for legacy,	50	
When not charged, unless agreement in writing,	152	
May sue or be sued in account,	156	
When suit survives to, and may be continued,		
and how,	164	
When to pay costs,	168	
How and when to sue and be sued, to administer		
estate, give bond &c.	174 to 180	
Of his own wrong, who to, and how, answerable,	174	
Who may cite, to account,	180	
To sue or distrain for certain rents,	205	
— use estate <i>pur auter vie</i> as assets,	223	
— execute devise to sell lands,	226, 605, 672	
See <i>Recognizance on writ of error</i> ,	402	
Within what time may compel creditors to exhibit		
claims,	412	
To take refunding bond,	<i>ib.</i>	
Duty respecting contracts of testators,	424	
When liable in his own estate,	431	
Judgment against, not to affect testator's land,	435	
May obtain order of orphans' court to sell lands,	<i>ib.</i>	
Money received on sale to be assets &c.	436	
Acting, or survivor to execute certain trusts in		
sale of lands,	573	
When debtor, debt not discharged,	<i>ib.</i>	
Of constable, to sue for and appropriate money		
which he ought to have collected,	656	
May obtain order to sell proprietary rights,	670	
How to advertise lands for sale in newspapers,	671	
Survivor to sell land ordered by orphans' court,	672	
Not to be sued in less than six months,	766	
Duty where estate is insolvent,	767	
When to give security and account with co-execu-		
tor,	778, 779	
How to put out minors' money,	<i>ib.</i>	
— accounts settled,	786	
Receipts and discharges may be recorded,	788	
EXEMPLIFICATION —See <i>Deeds</i> ,	8	
Of bond of keeper of state prison,	325	
EXEMPT —From arrest, (See <i>Militia</i> .)	592	
Who exempt from militia duty,	711	

FEE	EXERCISE—Time of, in militia &c.	Page.
EXONERATUR— On bail piece,		420
EXPENSE— Of courts martial,		593
EXTORTION— Definition and punishment,		250
EXTREME CRUELTY— Cause of divorce a <i>men. et tho.</i>		668
FAIRFIELD— Bounds,		510
FAIRS— Abolished,		265
FALSE ENGLISH— Not to vitiate indictment,		186
FALSE IMPRISONMENT— Punishment,		262, 735
FALSE LIGHTS— To mislead vessels,		722
FALSE SWEARING— To register of births or deaths,		447
FALSE TOKENS— Punishment,		256
FARCE— Not to be performed without license,		363
FATHER— May appoint testamentary guardian,		227
Must support poor child,		764
FEE SIMPLE— Nature and operation of estate in,		774
FEE TAIL— Nature and operation,		3.
FEES— In cases of tide swamps and meadows,		83
On partitions of land,		93
— references,		159
Of secretary and register to be set up in office,		231
— judges taking sheriff's bond,		238
On tavern license,		282
To be paid by pedlars,		294
In forcible entry and detainer,		352
Of auditors in attachment,		362
— town committee under act to regulate fences,		392
— notary public,		397
On commissions to take depositions,	437,	546
Of town clerk in registering births and deaths,		446
To judges, for holding circuits,		456
Of sheriff for notice to defaulting jurors,		457
— officers collecting taxes,		465
— courts and public officers regulated,	481,	512
— judges and masters sitting to advise chancellor,		499
— secretary of state, concerning fines,		501
Copies of fees to be set up in clerks' offices,		521
Of inspectors of flour,		565
In court of appeals and prerogative court,		574
For militia services, and when demanded,	594,	710
Of commissioners, to divide land,		597
In Trenton sessions,		607
— under road act,		627

	Page.
Fees ---Of court for small causes,	646, 772
Under act regulating assignment of debtors,	674
On judgment by confession,	685
Of secretary of state,	728
— criminals in state prison, how remitted and paid,	730
For recording and indexing deeds &c.	750
On entering satisfaction of judgment,	760
To be put up in office of surrogate,	788
FEMALE ---Not to be imprisoned for debt,	652
FEME COVERT ---Dying intestate, how estate distributed,	179
Not to make will of lands,	223
What conveyances by, good,	346-7
May defend without husband,	347
Not prejudiced by husband's conveyance,	ib.
How to acknowledge deed,	458
FENCES ---See <i>Tide swamps</i> ,	82 to 89
Regulated,	387
FERRIAGE ---Of militia men,	588
FERRIES ---How regulated,	408
FIERI FACIAS ---After <i>ca. sa.</i> where defendant dies in prison,	265
Proceedings on, in chancery,	704
See <i>Execution</i> .	
<i>Ca. sa.</i>	
FINES --- <i>Capias pro fine</i> abolished,	171
To be paid to treasury by sheriff,	210
Appropriated to poor, 248, 271, 231, 295, 372, 378,	550, 569
In case for, replevin will not lie,	216
Transmitted by clerks to treasurer,	451
On defaulting jurors,	454
Account of, to be returned to secretary of state,	500,
	501
Militia,	579, 593, 709
Of criminals in state prison, how remitted,	730
On criminal prosecutions, how paid,	ib.
Of criminals in state prison, how recovered out of their estate,	731
When to be paid to poor-houses,	765
To transfer titles &c. abolished,	475
FINES FOR ALIENATIONS ---abolished,	167
FISHERY ---In the Delaware, under agreement of New-Jersey and Pennsylvania,	57
In Rariton, regulated,	452
— South River, regulated,	520
— Hackensack regulated,	537, 596
— Delaware regulated,	57, 541, 569, 653, 659

FIS

Reading from
page 265

FRA

FISHERY —In creeks in Salem,	Page 587
On islands and bars in the Delaware,	658
In Cohansey creek regulated,	662
FISHING —On Sunday,	373
FIRE —In woods, wilful, and how extinguished,	146
No person liable for accidental,	210
FLOUR —Inspection of, packing, shipping &c.	565
FOLIO —One hundred words,	481
FORCE AND ARMS —Not necessary in indictments,	185
FORCIBLE ABDUCTION —Definition and punishment,	246
FORCIBLE ENTRY AND DETAINER —What, and how prosecuted and barred,	349
FORECLOSURE —See <i>Mortgage</i> ,	152
FOREIGN BILLS OF EXCHANGE —Costs on,	666
FOREIGN JURIES —When ordered,	453
FOREIGN POWER —Maintaining its authority,	262
FOREIGNERS —Hold land in Perth-Amboy,	61
How landed &c.	655
FORFEITURE —Of office by farming out,	53
To the state, under statute to prevent frauds and perjuries,	149
Abolished in criminal cases,	263
Of vessel fitted out for slave trade,	372
See <i>Vice and immorality</i> ,	378
Transmitted by clerk to treasurer,	451
When to be paid to poor-houses,	765
FORFEITED ESTATES —Settled, (See <i>Defts.</i>)	59, 60, 61
See <i>Restoration of records in Monmouth</i> ,	235
FORFEITED RECOGNIZANCES —Transmitted by clerk to treasurer,	451
FORGERY —Not bailable by justice or sessions, nor tried there,	144
Copy of indictment, list of witnesses, challenges, trial,	184
Definition and punishment,	255
Excludes from being a witness,	462
Punished by imprisonment in cells,	739
FORNICATION —Punishment,	248
FOWL —How preserved &c.	673
FRANKLIN —Bounds of,	661
FRANKFORD —Bounds,	287

FRAUDS ---On incorporated banks,	Page. 801
FRAUDS AND PERJURIES ---Act for prevention of,	148
<i>See Judgments collusive,</i>	346
FREEHOLD ---Bounds of,	25
FREEHOLDER ---May alien and how part aliened to be held,	166
List of, for juries, to be made by sheriff,	313
Duty in preventing disturbance of religious meetings,	664
FREEHOLDERS, CHOSEN ---Incorporation, power, duties,	317
Duty in ascertaining bounds of counties,	353
--- respecting work-houses,	443
To establish and regulate markets for live-stock,	522
<i>See Roads,</i>	619
Term of office,	655
Moneys accounted for to them and vested in board,	694
When to adjourn,	<i>ib.</i>
May sell lands,	<i>ib.</i>
Duty where vacancy in assembly or council,	741
FREE NEGROES ---Not to travel without certificate,	375
FREE PORT ---Perth-Amboy,	61
Burlington,	76
FREE SCHOOLS ---Fund for,	612, 649
FRONTIER ---Defence of,	595
FUGITIVES ---Their estates to be leased,	52, 60
<i>See Debts,</i>	59, 60, 61
How expense of bringing back, to be paid,	652
FUND ---For free schools,	649, 660
GAME ---Provisions respecting,	28
Indians excepted therefrom,	28
How preserved &c.	673
GAMING ---Indictable,	267
Contracts void,	<i>ib.</i>
Money lost at, recoverable,	268
Not allowed in taverns,	285
GAOLS ---How kept by sheriff,	239
Breaking, punishment,	257
Bounds of, laid out &c.	426
In Trenton,	538
--- Burlington,	559
GAOLER ---Punishment for not receiving criminals,	239
Not to be tavern keeper,	263
Duty in keeping United States' prisoners,	457
GARNISHEE --- <i>See Attachment,</i>	355

GOV	GENERAL ASSEMBLY—Representation in,	Page. 299
	GENERAL ISSUE—Pleadable in suits on <i>habeas corpus</i> ,	192
	Pleadable in action for improper distress,	202
	Under act to suppress vice &c.	384
	Pleaded and special matter given in evidence, except between mutual dealers,	404
	In suits under penal statutes,	405
	GENERAL QUARTER-SESSIONS—See <i>Sessions</i> .	
	GENERAL STAFF—Organized,	576
	GENERAL VERDICT—Jury not compelled to give,	314
	GIRDLING— See <i>Trees</i> ,	623
	GLOUCESTER—Bounds of,	3
	Courts, when held,	364, 453
	Road in, altered,	450
	Shell-fish in, how planted and protected,	759
	GOLD COIN—Counterfeiting, how punished,	736
	GOOD BEHAVIOUR—Recognizance for,	142
	When surety for, ordered by the court,	263
	GOODS—Of tenant when not liable to be taken in execution until rent paid,	187
	When bound by execution,	431
	from chancery,	499
	When not to be sold until after lands,	671
	See <i>Postea</i> .	
	Stolen from wrecks, returned with double value,	716
	found, duty of finder,	ib.
	embezzled,	ib.
	GOVERNMENT—Permanent seat of,	106
	GOVERNOR—See <i>Manufactures</i> ,	ib.
	To order suit on sheriff's bond,	238
	— license pedlars,	294
	— appoint notaries,	397
	Oath, and how administered,	440
	Fees,	461
	To make proclamation respecting contagious diseases,	502
	Duties under act to support jurisdiction of the state,	533, 669
	Duties under act regulating election of electors and members of congress,	534, 799
	Duties under act to regulate fishery in Delaware,	542
	To appoint inspectors of flour &c.	565
	— order out militia,	559
	Not to accept certain offices under general government,	605
	Trustee of school fund,	649

	Page.	
GOVERNOR —To distribute public laws to other states, 652,	752	GUA
To give warrant for expenses of removing criminals,	652	
To appoint commissioners respecting navigation of Delaware,	708	
When to remit fines and fees of criminals,	730	
To grant permit to make paper for bank-notes,	738	
Duty on vacancy of speaker or vice-president,	741	
To offer reward for criminals,	775	
How to permit slave to be sent out of the United States,	793	
To appoint commissioners to settle with Delaware,	795	
When to suspend sentence of death,	798	
GOVERNOR AND COUNCIL ---May pardon criminals on certain terms,	738	
GRAND CHILDREN ---Whom they must support,	764	
GRANDMOTHER ---Must support poor child,	<i>ib.</i>	
GRANDFATHER ---Must support poor child,	<i>ib.</i>	
GRAND JURORS ---Summons, qualifications, powers, proceedings, penalties,	311	
When to take oath of allegiance,	442	
Penalties, how recovered,	456	
Summoned without precept in oyer and terminer,	658	
GRANTS ---The word <i>or</i> in Carterets' charters construed <i>and</i> ,	2	
Of trust void, <i>unless</i> in writing,	151	
See <i>Attornment</i> ,	481	
<i>Conveyances.</i>		
<i>Frauds and Perjuries.</i>		
GRANTEES ---Rights against lessees,	314	
GRANTS OF TRUSTS ---See <i>Trusts</i> ,	151	
GREENWICH ---Bounds,	661	
GREAT EGG-HARBOUR ---Bounds,	316, 559	
Shell-fish in, how planted, protected &c.	759	
GRIST-MILLS ---Races opened &c.	612	
GUARD ---See <i>Militia</i> ,	593	
GUARDIAN ---May sue or be sued in account,	156	
Liable for waste,	208	
Testamentary, appointment and duties,	227	
Right respecting dower,	398	
Duties,	402	
— when lands cannot be divided,	597	
Of idiots and lunatics, their duties,	696	
When and how ordered to render accounts,	777	
— to give security,	777, 778	

HEA		Page.
	GUARDIAN —How accounts settled,	735
	Their receipts and discharges may be recorded,	738
	GUARDIANSHIP —Letters of, who to grant &c.	775
	Letters of, how and for what revoked,	778
	Bond,	784
	GUN-POWDER —Manufactories and magazines, where to be erected,	549
	GUNNING,	26, 673
	GUNS —Who may carry for game &c.	26
	Loaded, (See <i>Militia</i> .)	582
	HABEAS CORPUS —Granted, marked, signed, served, returned &c.	193
	Party liberated, not to be again imprisoned,	196
	When action to be brought for disobedience of,	198
	In such suit defendant may plead general issue,	id.
	How writ allowed afteroyer and terminer proclaimed for county,	199
	When prisoner is in by judgment of court of record,	203
	To remove cause into supreme court,	310
	<i>Habeas corpora juratorum</i> ,	312
	Respecting negroes and indians,	376
	To remove cause into supreme court,	424
	Bail on, required and justified,	425
	Pleadings in,	id.
	If plaintiff recover in suit removed by, he has full costs,	666
	HACKENSACK —Fishery in,	537, 596
	HALF BLOOD —Heirs of, how to inherit,	608
	HAMILTON —Bounds of,	559
	HANOVER —Bounds of,	526
	HARDISTON —Bounds of,	128
	HAWKERS —Regulated,	294
	HEIRS —See <i>Devises</i> ,	8
	See <i>Intestate</i> ,	76, 174
	Waste by,	209
	Not disinherited by corruption of blood &c.	263
	When and how liable for ancestor's debts,	291
	See <i>Posthumous children</i> ,	392, 606
	How to inherit,	608, 774
	HEALTH —See <i>Perth-Amboy</i> ,	555
	Unwholesome provisions,	735
	HEALTH OFFICER —At Perth-Amboy,	555
	HEALTH COMMITTEE —At Perth-Amboy,	556

	Page.
HIGHWAYS—Overseers of, to extinguish fires in woods,	146
Where they divide counties,	292
See <i>Bridges</i> ,	385
Laid out, worked, regulated &c.	615
HOLDING OVER—By tenant, how punished,	188
HONORS—Received from other governments,	549
HOPEWELL—Bounds of,	554
HORSES—What, are not to run at large,	378
In military service, appraised,	589
HORSE ARTILLERY,	711
HORSE-RACING—Prohibited,	550
HORSIMUS ISLAND,	523
HOUSE BREAKING—With intent to kill &c.	253
By night,	738
Punished by imprisonment in the cells,	739
HOUSE OF CORRECTION—See <i>Work-house</i> ,	443, 538, 558
HOWELL—Bounds,	509
HUCKSTERS—Not to entertain students at schools &c.	532
HUNTERDON—Bounds of,	5, 18, 21
Representation in legislature,	299
Courts, when held,	364, 453
HUNTING,	28, 673
On Sunday,	370, 378
HUSBAND—Right to administer on wife's estate,	179
May sue or distrain for rent after death of wife,	206
See <i>Conveyance and acknowledgment by wife</i> ,	346-7
Where default or conveyance, not to injure wife,	347
IDIOTS—Cannot make wills,	223
Who, and how managed,	696
IMMORALITY—Statute respecting,	378
See <i>Religious worship</i> ,	552
IMPARLANCE—Not allowed,	421
IMPARTIAL EXECUTION OF OFFICE—See <i>Justices supreme court</i> ,	605
IMPARTIAL ADMINISTRATION OF JUSTICE,	688
IMPOSTORS—Religious,	248
IMPRISONMENT—See <i>Habeas corpus</i> ,	193
Effect of insolvent discharge,	222
Action for false, not cognizable before justice,	629
Females not imprisoned for debt,	652
In the cells, who,	739

IMP

END	INCEST—Punishment,	Page. 261
<hr/>	INCHANTMENT,	246
	INCOMPATIBILITY—In certain cases of offices under United States and this state,	268
	See <i>Justice and Sheriff,</i>	243
	<i>Justices supreme court,</i>	605
	INCORPORATION—See <i>Perth-Amboy,</i>	61
	See <i>Burlington,</i>	70
	<i>Elizabeth,</i>	97, 104
	For manufacturing purposes,	108
	See <i>Paterson,</i>	119, 124
	<i>Trenton,</i>	125
	• Of societies to promote learning,	154
	— townships,	332
	See <i>Princeton,</i>	561
	INDENTURE—Of poor children,	41, 763
	Of servants and apprentices,	366
	By slave, for manumission, when discharged,	375
	Age stated in, not conclusive,	669
	Gives child of slave a settlement,	765
	INDEPENDENCE, DECLARATION OF,	ix
	INDEPENDENCE—Bounds of,	56
	INDEX—To judgments,	423
	To deeds,	749
	INDIANS—Their right to kill game,	28
	Purchase of lands from,	231-5
	How punished,	262
	See <i>Habeas corpus,</i>	376
	INDICTMENT—How to conclude,	52
	Statute of amendments and jeofails, not to affect,	142
	What tried in sessions,	143
	In oyer and terminer, to be delivered to sessions in certain cases,	154
	Act concerning costs not applied to,	171
	Copy of, when given,	184
	On what, court to assign counsel,	ib.
	Words, " <i>force and arms,</i> " not necessary,	185
	Miswriting and false English, not to injure,	186
	Within what time to be found,	196
	For perjury, how drawn,	249
	Limitation of,	263
	Trial of, for offences on creeks, rivers, highways &c.	293
	Trial of, where stroke and death, in different county or state,	297
	See <i>Recognizance on writ of error,</i>	402
	When to be tried, and costs,	406
	How removed from sessions by <i>certiorari,</i>	406

	Page.	INS
INDICTOR---Not to be on jury,	185	
INFANCY, INFANT---Children of vagrants,	48, 473, 763	
When and how infant trustee compelled to convey land,	158	
Certificate of consent to marriage of,	181	
Not to make wills of lands,	223	
Guardians of, by will or deed,	227	
How bound and treated,	366	
When infant is heir, his right respecting dower,	398	
How to sue &c.	414	
Proceedings not to stay,	ib.	
Money of, to be put out at interest by administrators, executors and guardians,	779	
INFECTIOUS DISEASES---Introduction of, into Perth-Amboy,	555	
INFECTED VESSELS---Proclamation respecting,	502	
INFORMER---See <i>Common informer</i> ,	405	
INFORMATION---In criminal cases, not to be exhibited,	199	
In nature of <i>quo warranto</i> ,	206	
See <i>Recognizance on writ of error</i> ,	402	
<i>Common informer</i> ,	405	
INJUNCTION---See <i>Ejectment for rent arrear</i> ,	190	
Court always open to grant,	494	
On what terms granted and dissolved,	495	
Waste after injunction,	496	
To prevent use of steam-boats,	564	
See <i>Steam-boats</i> ,	689	
When granted, to stay proceedings at law,	704	
INLAND BILLS OF EXCHANGE---Endorsed, prosecuted &c.	395	
INNS---Licensed, regulated &c.	281	
Who and how licensed,	744	
INQUESTS OF DEATH---How taken,	232	
When to be taken by justices,	511	
INQUIRY---In replevin,	215	
Writ of, for damages in error,	401	
Notice of executing, countermand, costs,	423	
INQUISITION---Act concerning costs, not to apply,	171	
Words, " <i>force and arms</i> ," not necessary,	186	
To be delivered to constable,	234	
Not to be indented,	235	
See <i>Recognizance on writ of error</i> ,	402	
INSOLVENT LAW---To what claims and persons it applies,	651, 652	
What property saved for debtor's family,	651	
How estate distributed,	766	
Certain law repealed, with saving &c.	793	

JEF		Page.
	INSOLVENT DEBTOR —Proceedings, 216, 223, 233	
	When to apply and be heard,	651
	What property reserved for family,	ib.
	Female not to be imprisoned for debt,	652
	How estates distributed,	766
	INSPECTION —Of judgment and process, not necessary,	424
	Of flour and meal,	565
	INSPECTORS —Of beef &c. duties, oath &c.	514
	Of flour and meal, duties &c.	565
	INSPECTORS OF STATE PRISON —Duties and compensation,	325
	Daily pay,	729
	Duty in detaining prisoner,	ib.
	To certify costs to treasurer,	ib.
	— punish prisoners for disorderly conduct,	732
	Appoint acting inspector and agent,	ib.
	When and how appointed, and vacancies filled,	795
	INTEREST —On certain debts,	61
	Rate of,	269
	When lenders to answer bill respecting,	ib.
	See <i>Brocade</i> ,	270
	INTESTATE —See <i>Bond to refund distributive share</i> , 50, 412	
	Leaving no relations, how estate disposed of,	76
	Estate of, administered and distributed,	174
	Lands sold by administrator,	436
	Contracts, when executed,	524
	Estate of persons dying insolvent distributed,	776
	Lands, when and how divided,	779
	INTERLOCUTORY JUDGMENT —Effect of, in assumpsit,	423
	INTERRUPTION —See <i>Militia</i> ,	593
	INTERNAL NAVIGATION —Fund for improvement created,	657
	INTRUSION —Into office, (See <i>Quo warranto</i> .)	206
	INVALIDS —How pensions paid,	514
	INVENTORY —What, and how made, filed &c.	176
	By guardian,	402
	How proved, recorded &c.	782
	Of insolvent,	794
	IRON WORKS —See <i>Roads</i> ,	623
	ISLANDS —In Delaware, where offences on are triable,	58
	ISSUE —General, pleaded and special matter proved, 198, 202,	
	384, 404, 405	
	In law first tried,	422
	— supreme court, where tried,	453
	Of marriage and bastardy, where tried,	455
	When formed in chancery,	496
	JEFFERSON —Bounds,	516

	Page.	JUD
DEFOALS---See <i>Amendments</i> ,	137	
DERSEY CITY---Incorporated,	682	
DERSEY COMPANY,	523	
JOINDER---In demurrer, when to be made,	422	
JOINT DEBTORS---How answerable,	305	
How answerable in attachment,	362	
JOINT TENANTS---See <i>Partition</i> ,	94, 299	
Sue or be sued in account,	156	
See <i>Waste</i> ,	209	
How compelled to make partition,	299	
— created,	556	
— shares allotted, when partition cannot be made,	597	
JOINTURE---Its effect,	399	
When barred,	400	
See <i>Descent</i> ,	608, 774	
JUDICIAL PROCEEDINGS---To be in English language,	141	
JUDICIARY---See <i>Courts</i> .		
JUDGMENT---See <i>Forfeited estates</i> ,	59, 60, 61	
By confession in open court,	135	
After verdict, not reversed for lack of form, mispleading &c.	138	
Statute of amendments annexed to it,	141	
Fraudulent,	150	
See <i>Records in Monmouth</i> ,	235	
<i>Payment</i> ,	306	
On bonds &c., with special condition,	307	
— appeal in cases of taxation,	308	
Collusive, relieved against,	346	
In forcible entry and detainer,	350	
See <i>Dower</i> ,	398	
When claim on, is barred,	411	
— to be entered on warrant of attorney,	415	
Arrest of, when moved for,	423	
How recorded,	<i>ib.</i>	
Interlocutory, in assumpsit,	<i>ib.</i>	
Roll not to be made up,	424	
No inspection of,	<i>ib.</i>	
Costs on arrest of,	<i>ib.</i>	
Against casual ejector,	425	
When and how bind lands,	430	
Reversal of, for error, not to affect lands sold under it,	434	
Against administrators and executors, how to bind lands,	435	
In what currency to be entered,	446	
— certain cases in Burlington, to be entered up,	510	
Of justices, when reversed, (See <i>Certiorari</i> .)	557	

	Page.
JUR	
JUDGMENT —Contrary to act to support jurisdiction of state,	614
By confession before justice,	633
Proceedings on, after year, in court for small causes,	643
How entered on bond and warrant of attorney,	685
In what cases mortgage preferred,	749
When and how satisfaction entered,	760
JUDGE —Of pleas to take security of sheriff,	236
Of election, appointment and duties, oath,	274, 341, 741, 743
To certify execution of bond of keeper of state prison,	327
Oath,	440
When to administer oaths of office,	442
Acknowledgment for lands in another county,	456
Duty in collecting taxes,	465
Fees,	512
Not to act as attorney or clerk,	646, 686
When disqualified and how challenged,	ib.
See <i>Revised laws</i> ,	770
JUDGE-ADVOCATE —To return to paymaster list of officers' fines,	710
JUGGLING ,	382
JURISDICTION —Over Delaware,	57, 77, 794
Sandy Hook,	107
Of counties adjoining rivers, roads &c.	292
— offences on rivers &c.	293
— supreme court,	310
— state, its extent &c.	533, 614, 689
See <i>Steam-boats</i> ,	547, 614, 689
Of court for small causes,	629, 641, 642, 773
See <i>Ordinary, Prerogative and Orphans' court</i> ,	776
JUROR —List of, and challenges by criminal,	184
Taking illegal reward,	250
Qualification and duties &c.	310
Petit,	311
How to be witnesses,	314
In forcible entry and detainer,	350
When to take oath of allegiance,	442
Their fines recovered,	456
Fees,	492, 646
JURY —List of, given to certain criminals,	164
Indictor, not to be on,	165
See <i>Verdict on obligations and between mutual dealers</i> ,	307
Qualification and duties, striking, verdict &c.	310
Foreign,	310, 453
When and how struck,	313
Not compelled to give general verdict,	314

JURY ---To take out papers,	Page. 314
See <i>Forcible entry and detainer</i> ,	350
Process for circuit,	454
Fees,	492, 649
See <i>Court for small causes</i> ,	633
How paid in criminal cases,	729
Number, where claim less than sixteen dollars,	773
JURY PROCESS ---See <i>Jury</i> ,	310
JUSTICE ---To be impartially administered,	688
JUSTICES OF PEACE ---Duty respecting paupers,	35, 764
Powers and duties,	142
To send recognizances to sessions,	143
— take examinations and recognizances of criminals and witnesses,	143-4
To endorse warrants from another county,	145
— order fire to be extinguished,	147
Duty respecting bastard children,	171
— respecting marriages,	181
To put landlord in possession when tenant deserts,	191
— issue warrant to sell distress &c.	206
Not to be sheriff,	243
To punish larceny,	251, 254, 260, 648
Duty as to riots,	280
— in taxations by chosen freeholders,	320
— in forcible entry and detainer,	349
Jurisdiction in attachment,	362
Duty between master and servant,	366
— in taking up slaves and repressing disorderly meetings,	370
Duty respecting slave trade,	373
— under statute to suppress vice &c.	378
To act as notaries in certain cases,	395
Proceedings to remove indictments &c. on <i>certiorari</i> ,	406
When to administer oath of allegiance,	440
Duty in collecting taxes,	465
— respecting disorderly persons,	473
When to take inquests of death,	511
Fees,	512, 646
Duty under act to support jurisdiction of state,	533
— to suppress vice and immorality,	553
— to support jurisdiction of state,	614
See <i>Court for small causes</i> ,	629
Not to keep tavern,	644
— to act as attorney,	646
To issue subpoena and swear witnesses before arbitrators,	654
See <i>Religious worship</i> ,	664
Duty under act to prevent waste of timber,	700
— for preservation of clams and oysters,	757

	Page
LAN	
JUSTICES OF PEACE ---Not to issue blank process,	769
Duty under act to preserve navigation of Delaware,	771
Jurisdiction over corporations,	773
Duty in collecting militia fines,	781
JUSTICES OF SUPREME COURT ---Judges of oyer and terminer,	154
Duty upon <i>habeas corpus</i> ,	196
To certify execution of bond of keeper of state prison,	327
To sign <i>certiorari</i> ,	406
Compensation for holding circuit,	456
Duty respecting taxes,	465
When to aid chancellor,	499
Fees while sitting in chancery,	5.
Their number,	528
Not to accept certain offices,	605
Effect of certificate that title came in question,	666
Not to hold two circuits in succession, in same county,	900
JUSTIFICATION ---Of bail,	417
On <i>habeas corpus</i> ,	425
KEEPER ---Of state prison, to render account,	547
Compensation, duties, bond &c.	325, 632
KIDNAPPING ,	259
KILLING ---Persons committing crimes,	262
KNIGHT SERVICE ---Abolished,	167
LAMBERTON ---Navigation of Delaware near,	571
LANDLORD ---And tenant, law of,	186, 193
When to be put in possession by two justices,	191
How admitted defendant in ejectment,	193
See <i>Distress for rent</i> ,	199
To distrain for one year's rent only,	201
When he may seize goods removed by tenant,	203
See <i>Partition</i> ,	302
What rent he may claim, before goods of tenant sold in execution,	666
LANDS ---See <i>Indians</i> ,	1, 235
<i>Wills</i> ,	7, 9
<i>Deeds and Lost deeds</i> ;	8, 55
How held in certain cases, though title defective,	35
Bounds of,	81
Of tenants in common, except general proprietors, divided,	89
Contracts respecting, to be in writing,	152
Tenure of,	166, 168
Not to be sold for gaming debt,	267

LANDS —See <i>Partition</i> ,	Page.	
<i>Alienation</i> ,	299	LEG
Of absconding debtor, how sold,	346	
Regulations for sale of, by judgment and execution,	360	
When and how sold, by executors and administrators,	430, 671	
Contracts respecting, by testator and intestate, how executed,	436, 794	
Held by aliens,	524	
When sold by sheriff, before goods,	604	
Sold by order of orphans' court, how advertised,	671	
Of lunatics, how to be sold by guardian,	671, 782, 794	
How children to take, under certain devises,	696	
Of intestates, when and how divided,	774	
Devised by wills, when and how divided,	779	
How managed when it cannot be divided,	780	
See <i>Real estate</i> , <i>Forfeited estates</i> , <i>Grantees</i> and <i>Lessees</i> .	782	
LANGUAGE —English, for judicial proceedings,	711	
LARCENY —Punishment,	251-4-5, 260	
Above six dollars, excludes witness,	462	
Under ten dollars, how punished,	648	
To value of \$50, punished by imprisonment in cells,	739	
LAW —Printed, to be received in evidence,	546	
How distributed to other states,	652	
Where, and how kept,	727	
Public, and of United States, printed, published, distributed,	752	
Revised and compiled, to be distributed and kept,	770	
Where deposited on death of officer,	ib.	
See <i>Statutes</i> .		
LAW REPORTS ,	528	
LEARNING —Societies to promote, incorporated,	154, 751	
Trustees elected &c.	ib.	
LEASE —By parol, when valid, and how assigned and surrendered,	151	
Chief lease, surrendered and renewed, without surrender of under leases,	191	
Debt on lease,	186	
Grantee's rights,	314	
Lessee's rights,	315	
LEGACY —In what court, and how sued for,	50	
When, and how payable,	51	
To witness to will, its effect,	224	
See <i>Refunding bond</i> ,	412	

LIN	LEGATEE---To give bond and refund, See <i>Witness to will</i> ,	Page- 50, 51 224
	LEGISLATURE---Where to meet,	108
	LESSEE---Proceedings where ejectment for rent arrear, Rights against grantees, assignees and reversion- ers,	198 315
	LETTERS OF ADMINISTRATION---Who to grant, How, and for what revoked,	776 777
	LETTER OF ATTORNEY---See <i>Conveyance</i> ,	8
	LETTERS OF GUARDIANSHIP---Who to grant, How, and for what revoked, When, and how granted, and form,	776 777 784
	LETTERS TESTAMENTARY---How granted, form &c.	782
	LEWDNESS, OPEN---How punished,	249
	LIBEL---On trial, truth may be given in evidence,	475
	LIBRARY COMPANY---Incorporation of societies to promote learning,	154, 751
	LICENSE---To tavern keepers, To pedlars, — physicians,	282 294 603
	LIEN---When, and how action is a lien on property of cor- porations, Attachment, lien on goods and lands of absent debtor,	611 734
	LIGHTS, FALSE---To mislead vessels,	722
	LIMITATION---See <i>Surveys</i> , Forfeited estates, Of sixty and thirty years, on suits for land, — suits on <i>habeas corpus</i> act, See <i>Escape</i> , In criminal cases, Of action on gaming contract, When absent person is presumed dead, Of suits against pedlars, — action against servant for running away, — action under act for suppressing vice &c. — personal and mixed actions, — action for real estate, — suit against attorney for misconduct respecting costs, Under act respecting horse-racing, See <i>Non-residents</i> , Of action and indictment for destroying timber, — prosecution under tavern act,	17, 104 60 81 198 243 263 268 288 295 368 384 410, 670 411 414 551 670 700 745
	LINES---Settled by parties,	81

	Page.	MAN
LINE BOOK ---Kept by clerk,	81	
LIQUORS ---See <i>Militia</i> ,	587	
Not to be sold near places of religious worship,	664	
Who may sell, and how,	745	
LIST ---Of causes for trial,	423	
LITERATURE ---Societies to promote,	154, 751	
LITTLE EGG-HARBOR ---Bounds,	513	
Shell-fish planted and protected,	759	
LIVE-STOCK ---Market for, in New-Brunswick,	513	
Market for, in counties,	522	
LIVERIES ---Respecting real estate, taken away,	167	
LIVERY OF SEIZIN ---See <i>Estates</i> ,	151	
LIVINGSTON ---Bounds of,	559	
LOADED GUNS ---At trainings,	592	
LOAN-OFFICE ---What moneys transferred there,	600	
LODGER ---Stealing goods, how punished,	254	
LOST DEEDS ---How supplied,	55	
LOTTERY ---Suppression of,	272	
LUNATIC ---Not to make wills,	223	
Who, and how managed,	696	
MAGAZINE OF GUNPOWDER ---Where to be built,	549	
MAIMING ---How punished,	259	
MAINTENANCE ---Of bastard children,	171	
Of wife, when and how ordered in chancery,	669	
MALICIOUS MISCHIEF ,	261	
MALICIOUSLY DESTROYING DEEDS ,	260	
MALIGNANT DISEASES ---See <i>Perth-Amboy</i> ,	555	
MANAGERS ---Of tide swamps &c.	529, 655	
MANASQUAN RIVER ---See <i>Oysters</i> ,	800	
MANDAMUS ---See <i>Amendments</i> and <i>Jeofails</i> ,	141	
When issued, and proceedings thereon,	160	
MANSLAUGHTER ---Notailable by justice or sessions, or triable in sessions,	144	
Defendants; right to copy of indictment and chal- lenges,	184	
Punishment,	245, 739	
MANUFACTURES ---Society, incorporated, and privileges granted,	103, 132	
Of gunpowder, where to be,	549	

		Page.
MIL	MANUMISSION —Who may be manumitted, and how,	373
	When and how to be made,	680
	MAPS —See <i>Surveyor-general</i> ,	17
	MARRIAGE —Degrees prohibited,	180
	Minors not to be married without certificate,	181
	Who may solemnize, and how, and how recorded,	2.
	Forcible and unlawful, how punished,	246
	Legality of, tried by country,	455
	MARINERS —May make nuncupative wills,	228
	MARKET —For live-stock in New-Brunswick,	513
	For live-stock in counties,	522
	MARSHES —How banked in &c.	62
	Wilful firing, and fire extinguished,	147
	Improvement of tide,	455, 529
	MASTER —Remedy for misconduct of apprentices and ser- vants,	366
	See <i>Slaves</i> ,	369 to 377
	What to pay for slave or servant in work-house,	444
	In chancery, fees,	482, 499
	Of steam-boat, duty under law to tax passengers,	657
	How to take slave from state prison and send out of state,	793
	MAURICE RIVER —Bound	510
	MAYHEM —How punished,	262, 735
	MEADOWS —How tide, banked in,	82, 128
	Wilful firing, and how fire extinguished,	147
	Tide, improvement of,	529, 655
	MEAL —Inspection of,	565
	MEDICINE —See <i>Medical society</i> ,	601
	MEDICAL SOCIETY —Incorporated, and powers,	601, 628
	MEMBERS OF CONGRESS —Elections, vacancies &c.	534, 798
	MESNE PROFITS —How inquired of in error,	401
	Security for costs,	425
	MESTEEs —See <i>Habeas corpus</i> ,	376
	MIDDLESEX —Bounds of,	3, 6, 107
	Courts, when held,	364, 453, 503
	MILESTONES —When and how placed,	626
	MILITIA —System,	574
	By whom ordered out,	589
	How long military discipline lasts,	592
	Fines for not training,	709
	MILL-DAMS —Roads across,	623

	Page.	MOU
MILLS, GRIST--Races to be opened,	612	
MILLERS--Toll regulated,	446	
MILLVILLE--Bounds,	510	
MINORS--Certificate of parent or guardian's consent to marriage,	181	
At school, not to be entertained at taverns &c.	532	
Money, how put out at interest,	779	
See <i>Infant</i> .		
MISADVENTURE,	262	
MISBEHAVIOUR--See <i>Militia</i> ,	591	
MISDEMEANORS,	244, 262	
MISPRISION OF TREASON--Defendant right to copy of indictment and challenges,	184	
Definition and punishment,	245	
MONEY--Tendered and brought into court, in suit at law on mortgage,	168	
When and how brought into court,	306	
Of account, regulated,	446	
Due state, how recovered,	699	
Brought into chancery, how managed,	704	
MONMOUTH--Bounds of,	3, 6	
Courts, when held,	364, 453	
Representation in assembly,	613	
MORRIS--Bounds of,	18, 526	
Courts, when held,	364, 453	
Representation in assembly,	572	
MORTGAGE--See <i>Forfeited estates</i> ,	53	
To alien friends,	96	
How affected by statute of frauds and perjuries,	149	
See <i>Infant trustee</i> ,	158	
In suit at law defendant may bring money into court and plaintiff re-convey,	162	
When and how chancellor may decree before regular hearing,	163	
Where mortgagee may pay rent in arrear on ejectment brought,	189	
See <i>Proceedings in ejectment for rent in arrear</i> ,	<i>ib.</i>	
Limitation of right of redemption,	412	
What deeds recorded as mortgages,	465	
How mortgaged premises sold in chancery,	704	
— acknowledged in another state,	747	
When recorded and effect of it,	748	
— preferred to previous judgment,	749	
MOTHER--Must support poor child,	764	
MOUNTEBANK DOCTOR--See <i>Physic</i> ,	603	

NEW	MULATTO SLAVE —Punishment of, See <i>Habeas corpus</i> ,	Pag. 222 376
	MURDER —Not bailable by justice or triable in sessions, Defendant must have copy of indictment &c., and challenges, Punishment, See <i>Riots</i> , Indictment and trial where stroke and death in different counties, Excludes witness,	144 184 245, 262 280 297 462
	MUSIC —See <i>Militia</i> ,	577, 587
	MUTE —Defendant standing mute, how tried,	184
	MUTUAL DEALERS —How to plead payment and discount, Not to plead general issue and give special matter in evidence,	305 404
	NAVESINK —River, oysters &c.	759
	NAVIGATION —Of rivers &c. not to be obstructed, obstructions removed and bridges kept up, Of Delaware, See <i>Rivers</i> .	22 57, 542, 571, 708
	NE EXEAT —Court always open to grant writ, and when granted,	494-6
	NEGROES —Punishment for crimes, Free, not to travel without certificate, See <i>Habeas corpus</i> , How they gain settlement,	262 375 376 765
	NETS —For fish in Rariton, In South-River, — Hackensack, — Delaware, — Cohansey creek,	452 520 537 541 662
	NEWARK —Bounds,	331, 529, 554
	NEW-BRUNSWICK —Bounds, charter &c. Market for live-stock, Powers of corporation, paving streets &c.	505 513 614
	NEW-JERSEY —Partition between East and West Jersey, and its effects, Division line from New-York, Agreement with Pennsylvania respecting Delaware, Jurisdiction over Sandy-Hook transferred to United States, Seat of government, Recovery of moneys due,	9 29 57, 59 107 108 649
	NEW-PROVIDENCE —Bounds of,	544

	Page.	OAT
NEW-YORK ---Line dividing from New-Jersey, See <i>Act to support jurisdiction of state</i> ,	29 689	
NEWTON ---Bounds,	315	
NEW TRIAL ---When moved for,	423	
NIGHT ---Breaking and entering by, &c.	738	
NOMINATIONS ---Of candidates, when and by whom made,	274	
NON-AGE ---Where not to delay suits,	348	
NON-COMMISSIONED OFFICERS ,	577	
NON-RESIDENT ---Entitled to attachment, When must file bond to pay costs in chancery, How limitations apply to,	382 495 670	
NON-SUMMONS ---In real actions &c. (See <i>Wager of law</i> .)	178	
NONSUIT ---When not allowed in court for small causes,	798	
NOTARY PUBLIC ---See <i>Promissory notes</i> ,	397	
NOTE ---By slave for manumission, when discharged, Promissory, how endorsed, prosecuted &c. Counterfeit, and blanks for,	375 395 736	
NOT GUILTY ---When it shall be considered as pleaded,	184	
NOTICE ---To quit, by tenant to landlord, Of special matter under general issue, — trial, what and when given, — writ of inquiry, — attachment,	188 404 422, 693 423 733	
NUISANCES ---In navigable rivers, Punishment, Lotteries, Horse-racing,	22 262, 735 272 550	
NUNCUPATIVE WILLS ---How made, proved and executed,	228	
OATH ---Of coroner, Of sheriff, — town officers, In attachment, Of treasurer, what, and how administered, See <i>Affirmation</i> , Official form &c. and of allegiance, Of trustees of college of New-Jersey, — officers of Queen's College, — trustees of religious society, — inspectors of beef, pork &c. — deputy attorney-general, — inspectors of flour, — militia officers, — company court,	231 236 343 355 427 429 440 448 450 480 514 557 565 577, 579, 582 580	

ORP⁴

OATH —Of members of court martial,	Page 509
In court for small causes,	633
Commissioner of wrecks,	716
Officers of election,	743
Commissioners,	747
Of surrogate,	785
OBLIGATIONS —Suits on, with special condition,	305
OBSTRUCTING PROCESS —Punishment,	256
OCCULT SCIENCE ,	248
OFFENDERS —Who, admitted to bail by justice and sessions,	144
Fleeing, how to be pursued in another county,	145
OFFICE —Not to be farmed out to deputy,	53
Mode of resigning,	<i>ib.</i>
Not to be held by persons who violate <i>habeas corpus</i> act,	198
What incompatible,	208
When oath of, to be taken,	443
See <i>Aliens</i> ,	604
Impartial execution of,	605
OFFICERS —Where to reside,	53
Mode of resigning,	<i>ib.</i>
When misprisions amendable,	138
— to take oath of office,	443
Militia, misbehaviour, disobedience &c.	591
— training and fines,	709
Of election, not to be candidates,	741
— oath, duties &c.	743
OPEN LEWDNESS ,	248
ORANGE —Bounds,	529
ORDER —Of removal of pauper,	44, 764
For support of bastard children,	171
ORDERLY SERGEANT ;	579, 710
ORDINARY —Process to enforce citation, decree &c.	178
Fees of,	481, 789
Power and authority ascertained,	776
See <i>Prerogative court</i> .	
ORPHANS' COURT —To order distribution of intestate's estate,	178
Duty, as to guardians,	402
May compel creditors to exhibit claims to executors and administrators,	413
Duty respecting sale of lands, on application of administrators and executors,	435
Oath &c.	440
Contracts by testators and intestates,	524
Order proprietary rights sold,	670
How to order sale of lands by administrator,	671

	Page.
ORPHANS' COURT ---Duty under assignments for benefit of creditors,	674
To appoint commissioners to set off dower,	677
Established &c. when and how held &c. jurisdiction &c.	776
Special terms, how appointed and held,	788
OUSTER ---See <i>Quo warranto</i> ,	206
OUSTERLEMAIN ---Taken away,	167
OUTLAWRY ---See <i>Amendments</i> and <i>Jeofails</i> ,	142
OVERSEER OF POOR ---See <i>Poor</i> ,	35
To receive property of persons leaving no relations,	76
Duty respecting bastard children,	172
To receive pedler's tax,	294
Election, oath of office, penalty for not serving,	342
Duty under act to suppress vice and immorality,	378
--- and compensation under act to prevent horse-racing,	550
Duty under act to regulate Delaware fisheries,	569
--- respecting persons arriving from foreign parts,	655
Duty under act for gradual abolition of slavery,	680
--- as to relief of poor,	764
To pay fines &c. to poor-houses,	765
OVERSEERS OF HIGHWAYS ---Duty respecting track of carriages,	79
Duty to order fire in woods extinguished,	146
--- respecting bridges,	385
See <i>Roads</i> ,	615
OYER AND TERMINER ---Constitution and jurisdiction,	153
When <i>habeas corpus</i> returnable there,	199
To punish delinquent constables, jurors and coroners,	234
To receive returns of inquisitions &c.	<i>ib.</i>
When, and by whom held,	153, 455
--- special term to be held,	<i>ib.</i>
May order tales,	<i>ib.</i>
Clerk to make return of amendments &c.	457
Fees,	481
No venire process necessary,	658
OYSTERS ---Planted, preserved, gathered, sold,	757-8
In Manasquan,	800
PAPER ---For bank notes, how made &c.	738
Possessing,	<i>ib.</i>
PAPER BOOKS ---In error, not necessary,	426
PARCENERS ---Waste between,	209

PEN	PARDON—When it restores competency of witness, By governor and council,	Page 482 738
	PARKS—See <i>Game</i> ,	28
	PAROL—Not to demur,	414
	PARTITION—Between East and West Jersey, Between New-York and New-Jersey, —— coparceners, joint tenants, and tenants in common, Who compelled to make, and proceedings, What to be done when it cannot be made,	9 29 89 299 597
	PARTICULARS—Bill of, when to be delivered,	421
362	PARTNERS—How answerable in attachment,	364
	PARTY—May sue or defend in person,	414
	PASSENGERS—In vessels from abroad, how landed &c. In steam-boats, taxed,	655 657
	PASSAIC—See <i>Rivers, Navigation, Fisheries</i> .	
	PATENTS—Construction of the word <i>or</i> in Cartarets',	2
	PATERSON—Incorporated,	119
	PAUPERS—See <i>Poor</i> ,	36
	PAYMASTER,	582
	PAYMENT—When pleaded in bar,	306
	PEACE—Process for breach of, may be served on Sunday,	361
	PEDLERS—Regulated,	294
	PEINE FORTE ET DURE—Abolished,	185
	PENALTY—For entertaining persons not settled, On secretary of state, for not issuing commissions, How distress for, to be disposed of, On jurors and witnesses, in forcible entry and de- tainer, For enticing away, or harboring servants, Trading with, or harboring slave, or letting him beg, Selling slave to person unable to maintain, Bringing slave into state, See <i>Act to suppress vice and immorality</i> , For not registering births and deaths, —— entertaining students &c. —— serving process not authorized by state, —— obstructing navigation of Delaware, —— erecting gunpowder factory &c. Under statute to prevent horse-racing, —— infectious diseases, Under act for inspection of flour &c.	36 53 206 353 364 369 ib. 370 378 446 533 ib. 542 549 ib. 555 586

	Page.	
PENALTY —Under road act,	569	PHY
See <i>Chain bridge</i> ,	600	
PENAL LAW ,	244	
See <i>Treason</i> ,	51, 144	
Drunkenness,	287, 382	
Pedlers,	294	
State prison,	325	
Slaves,	369, 443, 680, 682, 736, 793	
Sabbath breaking,	378	
Swearing falsely,	381	
Exhibition of plays &c.	382	
Infectious diseases,	502, 555	
Horse-racing,	550	
Religious worship,	552, 662	
Wrecks,	716	
Unwholesome provisions,	735	
PENAL STATUTE —Action on,	402-5	
Process under, how endorsed,	405	
Limitation of action on,	412	
PENSIONS —Payment of, regulated,	514	
PEQUANNOCK —Bounds,	518	
PERJURY —Not triable in sessions, norailable there or by justice,	143	
See <i>Frauds and Perjuries</i> ,	148	
Punishment,	249	
Excludes witness,	442	
Before arbitrators,	654	
Punished by imprisonment in cells,	739	
PERSONAL ESTATE —Disposed of, where no relations,	76	
PERSONATING —Others to acknowledge fine &c.	256	
PERTH-AMBOY —Incorporated &c.	61	
Road to Salem,	545	
See <i>Infectious diseases</i> ,	555	
PETTY CHAPMEN —Regulated,	294	
PETIT JURORS —Qualifications, how summoned,	311	
When to take oath of allegiance,	443	
Summoned without process inoyer and terminer,	659	
PETIT TREASON —Punishment,	245	
PIRACY —Excludes witness,	462	
PHYSIC, PHYSICIANS —Physician for state prison appointed and paid,	331	
See <i>Medical society</i> ,	601	
Penalty for practising without license,	603	
How license granted,	628	
— accounts kept and rendered,	ib.	
See <i>State prison</i> ,	732	

POO	PLATES —To counterfeit notes,	736
	PLAY —Not to be performed without license,	382
	PLEA, PLEADING —When amendable, and to be in <i>English</i> ,	137
	See <i>Mandamus</i> ,	160
	By criminals,	184
	See <i>General issue</i> ,	198, 202, 384, 404, 406
	On bonds with special condition,	305
	— bills, bonds, judgments and <i>scire facias</i> ,	3.
	See <i>Mutual dealers</i> ,	3.
	Pleading facilitated,	405
	Defendant may plead several pleas,	3.
	When and how amended,	421
	————— to be filed,	421, 423
	On <i>habeas corpus</i> , when filed &c.	424
	In error, when filed,	425
	Of bastards,	455
	In <i>obancery</i> ,	495
	Of title, before justice,	639
	Time and notice of filing,	692
	POLL —When opened and closed,	743
	POLYGAMY —Not triable in sessions, nor bailable there or by justice,	143
	Punishment,	247
	Excludes witness,	462
	POMPTON —Bounds,	270
	POPULAR ACTION —Statute of amendments not to apply,	142
	See <i>Costs</i> ,	171
	Recognizance on writ of error,	402
	POOR PERSONS —How to prosecute and have counsel gratis,	393
	POOR —Fines for use of, 28, 77, 248, 271, 281, 289, 290, 294, 371, 372, 378, 379, 452, 550, 569	
	See <i>General act</i> ,	35
	<i>Personal estate of persons having no relations</i> ,	76
	<i>Fine for fornication</i> ,	248
	Fine for improperly recommending tavern keep- er, to be for their use,	281
	Employment at poor-house,	324
	Settlement of slaves,	375
	Entitled to penalty under act to suppress vice &c.	378
	See <i>Poor persons</i> ,	393
	<i>Penalties under act to prevent horse-racing</i> ,	550
	<i>Penalty under act to regulate Delaware fish- eries</i> ,	569
	Children educated by townships,	725
	———— bound, where there is poor-house,	763
	Supported and relieved by relations,	764
	In Salem,	798

	Page.
POOR-HOUSES---Regulated,	43
For county, how built and supported,	323
Built by townships,	695
See <i>Poor children bound</i> ,	763
When fines &c. paid to them,	765
PORK---Repacking,	514
POSSESSION---What shall give title to lands, 81, 346, 410, 411,	412, 670
Of three years, bar to action of forcible entry and detainer,	352
POSTS, MILE---How placed,	626
POSTHUMOUS CHILD---How to inherit,	392, 608
POSTPONEMENT---Of cause, in court for small causes,	798
POUND, POUND-KEEPER---Appointment, duties &c.	341
See <i>Beasts</i> ,	387
<i>Distress</i> ,	199
POWER OF COUNTY---When taken by sheriff,	243
PRACTICE---In courts of law,	413, 691
Rules of, how made and published,	426
In chancery, regulated,	494
PREGNANCY---Concealment of,	247
PREROGATIVE COURT---Process to enforce citation, decree,	178
Office,	482
Wills filed, and testators' names recorded,	728
Jurisdiction regulated,	776
When and where held,	<i>ib.</i>
PRESENTMENT---See <i>Recognizance on writ of error</i> ,	402
PRESIDENT OF UNITED STATES---Election,	518
PRESUMPTION---After seven years' absence, death pre- sumed,	288
PRIMER SEIZIN---Abolished,	167
PRINCETON---Incorporated,	561
Where to commit criminals,	569
PRINTED LAWS---Evidence,	540
PRINTER---Public,	752
PRISON---Prison bounds,	426
Breach of,	651
PRISONER---How to be treated by sheriff and gaoler,	140
See <i>Habeas corpus</i> ,	193
Assisting to break gaol or escape from officer,	257
Of United States, where and how kept,	457, 659
PRISON BREAKING---Punishment,	257

PRO	PRIVATE ROADS,	85
PROBATE OF WILLS —Who to grant &c.		75
PROCESS —How to run,		52
When amendable,		157
To enforce citation, decree or sentence of ordinary,		173
Miswriting, false English &c. not to vitiate,		186
Obstructing,		256
How served on chosen freeholders,		318
_____ township,		339
When not to be served on seventh day,		360
Under penal statute, how endorsed,		405
In personal action,		415
How served on defendant in custody,		421
Inspection of,		424
For jury, in circuit court,		454
In chancery, when and how issued,		495
Penalty for serving, when not issued or authorized by this state,		533
See <i>Militia</i> ,		569
How served on corporations,		610
Void, if contrary to act to support jurisdiction &c.		614
In court for small causes,		630
Under act regulating fishery in Delaware,		654
How returned by coroner,		693
In chancery, after decree,		704
Blank, not to be issued by justice, and its service void,		769
PROCEDENDO —On cause removed by <i>habeas corpus</i> ,		424
PROCLAMATION —To rioters,		274
Respecting contagious diseases,		502
To take criminal,		775
PROHIBITION —Costs on,		109
PROMISES —See <i>Contracts respecting lands</i> ,		152
PROMISSORY NOTES —How endorsed, prosecuted &c.		396
Costs in suit against drawer and endorser,		657
PROPRIETORS —Secured in rights, after division between East and West Jersey,		11
Surveys approved, bar their claims,		91
Not affected by act to divide estates between coparceners &c.		94
In what cases to give preference to surveys,		105
Assessments to drain meadows &c.		131
PROPRIETARY RIGHTS —Subject to execution,		434
Ordered to be sold by orphans' court,		470
PROTECTION —See <i>Wager of law</i> ,		183
PROVISIONS —Unwholesome, sale of,		735

	Page.
PROVISO---Trial by,	422
PUBLICATION---Of discipline of militia,	592
PUBLIC LAWS---Printed, distributed &c.	752
PUBLIC MONEY---How invested,	600, 604
PUBLIC ROAD---In Gloucester, altered,	450
PUR AUTER VIE---Estate how devised, and when assets,	223
PUTATIVE FATHER---Duty in supporting bastard,	172-3
QUACK---See <i>Phyric</i> ,	603
QUALIFICATION---Of voters,	741
QUARTER-SESSIONS---See <i>Sessions</i> .	
QUARTER-MASTER---Duty,	582, 712
QUEEN'S COLLEGE---Charter confirmed &c.	450
QUI TAM---See <i>Costs</i> ,	171
Against sheriff for taking reward to excuse jurors,	312
--- master &c. of slave vessel resisting process,	373
See <i>Act to prevent vice and immorality</i> ,	378
For horses running at large,	<i>ib.</i>
See <i>Common informer</i> ,	406
For entertaining students,	533
--- obstructing navigation of Delaware,	542
Under act for inspection of flour,	567
See <i>Delaware fishery</i> ,	569
<i>Chain bridge</i> ,	600
Against judge &c. acting as attorney,	646
Fraudulently marking sheep and cattle,	748
See <i>Act for preservation of oysters</i> ,	757
QUO WARRANTO---See <i>Amendments</i> and <i>Jeofails</i> ,	141
Proceedings on,	206
RAHWAY---Bounds,	520
Charter of Elizabeth not to extend to it,	525
RAMS---When not to run at large,	452
RANDOLPH---Bounds,	528-7
RANK---Of officers,	576, 710, 712
RAPE---Notailable by justices or sessions, nor triable there,	144
Defendant to have copy of indictment and list of jury,	184
Punishment,	246
Excludes witness,	462
Punishment in slave,	736
--- the cells,	739
RABITON---Fishery regulated,	452
See <i>Navigation</i> .	

REF		Page
	RATES —Of ferries,	468
	REAL ESTATE —Contracts respecting, by testator and intestate,	524
	How to descend,	608, 774
	— plaintiff must sue, to reach real estate, where debt is under \$100,	644
	How children take, under certain devises,	774
	See <i>Lands</i> .	
	REASONABLE CAUSE —Certificate of,	169
	REBELLION —Commission of, to be omitted,	501
	RECEIPT —From treasurer, to be recorded by secretary,	7
	What recorded by surrogate,	788
	RECEIVER —Of stolen goods, punished,	261
	RECOGNIZANCE —For good behaviour,	142
	To be sent to quarter-sessions,	143
	Forfeited, how prosecuted, paid to treasury &c.	210
	Of tavern-keepers,	281
	On writ of error,	401
	— removing indictments and orders from justices and sessions,	406
	When recognizor not to pay costs,	7
	Of special bail, form,	416
	On <i>habeas corpus</i> ,	424
	Forfeited, transmitted by clerk to treasurer,	451
	Oath of due taking, not necessary,	538
	For appearance in court for small causes,	632
	In error, when taken,	693
	On appearance of absent debtor,	733
	RECORD —Of conveyances, evidence,	8
	When amendable,	137
	Of marriages,	182
	Certain records in Monmouth restored,	235
	Of conviction under act to suppress vice &c.	383
	How made,	423
	By bail, where error brought by principal,	424
	Of births and deaths,	447
	— wills and deeds,	458
	— deeds in secretary's office, when evidence,	461
	In Burlington, lost, to be restored,	510
	Of deeds and mortgages, priority &c.	747-8
	RECORDING —See <i>Conveyance</i> ,	456, 792
	Mortgages,	465, 748
	RECOVERY —Common, abolished,	475
	RE-ENTRY —By landlord,	188
	REFERENCE —See <i>Report</i> ,	159
	In court for small causes,	640

	Page.	REP
REFEREES --See <i>Report</i> ,	159	
Take oath, swear witnesses, compensation,	<i>ib.</i>	
REFORMED DUTCH CONGREGATIONS --How incorporated and regulated,	475	
REFUNDING BOND --When taken,	50, 179, 412	
On attachment,	382	
REGIMENT ,	576	
REGIMENTAL BOARD ,	<i>ib.</i>	
REGIMENTAL STAFF ,	<i>ib.</i>	
REGISTER --Bond &c. (See <i>Secretary of state</i> .)	229	
Oath, and how administered,	440	
Fees,	482, 501	
Of chancery, abolished,	<i>ib.</i>	
— prerogative court, to file wills and record testators' names,	728	
— prerogative court, secretary of state to be,	776	
To certify transcripts of wills,	789	
REGISTER OF BIRTHS AND DEATHS ,	446	
RELATOR --See <i>Quo warranto</i> ,	206	
RELATIONSHIP --When it disqualifies a judge,	688	
RELIGIOUS SOCIETY --May solemnize marriage,	181	
Their records evidence of marriage,	<i>ib.</i>	
How incorporated and regulated,	475	
RELIGIOUS IMPOSTOR --Punished,	248	
RELIGIOUS WORSHIP --Not to be disturbed,	552, 662	
REMOVAL --Of pauper,	44	
Of militia officer from bounds of his command,	587	
RENT --Where tenant for life dies before it is due,	187	
Where no demise by deed,	<i>ib.</i>	
When year's, paid by officer having execution,	187, 666	
In arrear, when recovered,	189	
Removing goods, before it is paid,	203, 666	
When to be paid by widow,	679	
See <i>Distress, Landlord and tenant</i> .		
REPLEVIN --Avowant in, to have costs,	169	
Action regulated,	212	
Will not lie, in case of distress for fine, assessment or tax,	216	
Several pleas may be pleaded,	403	
Limitation of,	410	
Not cognizable before a justice,	629	
REPORT OF AUDITORS --In attachment,	358	
REPORT OF REFEREES --Operation &c.	159	

RIV

REPORTS, REPORTER—Law,	Page 538
Term of office, compensation,	706
REPRESENTATION—Of Sussex, Hunterdon, Cumberland,	299
Burlington and Cape-May,	512
Of Essex,	572
— Morris and Cumberland,	613
— Monmouth,	
REPRESENTATIVE—In congress, not to hold certain offices,	206
How elected, and vacancies supplied,	534
RESCUE—Of body ordered for dissection,	245
Of criminals,	257
RESIDENCE—See Peer,	36
RESIGNATION—Mode of, by public officers,	53
Of militia appointment,	556
RE-SURVEY—Who may make, of lands,	105
RETAILING LIQUORS,	746
RETAKING—On fresh pursuit pleaded,	243
RETURN—See Error,	166
See C. C. C.	420
Road,	661
RETURN DAY—In supreme court,	453
REVERSAL—Of judgment, not to affect purchasers of lands,	434
REVERSIONER—Rights against lessees,	314
Not injured by default or surrender of tenant, but	
may defend,	346
When to have writ of error,	348
REVISED LAWS—Distributed &c.	770
REVIEWS—Militia,	578
REWARD—For extinguishing fire,	147
For apprehending criminals,	330, 775
— taking up slave who absconds,	370
RIEN PER DISCENT—Plea by heir,	291
RIFLE COMPANY,	594
When commanded by officer of regiment or bat-	
talion,	710
RIOTS—Punishment,	262, 735
Law to prevent,	279
RIVERS—See Navigation,	22
Hackensack, fishing &c.	537
Delaware, fishing &c.	541, 569, 571, 653, 659, 708
Jurisdiction of Delaware river, islands &c.	57, 77
See Fishery.	

	Page.	SEC
ROAD —From Perth-Amboy to Salem altered,	450, 545	
Travellers keep to the right in passing,	568	
Not to be laid out through lands of the state,	571	
Laid out, worked, regulated &c.	615	
Tax,	622	
How and when return to be transmitted to clerk,	661	
See <i>Highways</i> .		
ROBBERY —Not bailable by justices or sessions, nor tried there,	144	
Defendant to have copy of indictment and list of jury,	184	
Punishment,	252, 739	
Excludes witness,	462	
Punishment in slave,	736	
Of election box,	743	
ROLL —At trainings,	579	
ROUTS —Punishment,	262, 735	
Law to prevent,	279	
ROXBURY —Bounds of,	316, 394, 518	
RULES —On sheriff, to bring in body,	416	
Of practice, how made and published,	426	
SABBATH-DAY —To be kept, violation of &c.	378	
SALEM —Bounds of,	3, 19, 24	
Courts,	364, 453	
Creek, fishery in,	596	
Poor in,	800	
SANDY-HOOK —Jurisdiction vested in United States,	107	
SATISFACTION —See <i>Tender of money in suit on mortgage</i> ,	162	
Of judgment, when and how entered,	760	
SCHOLARS —Not to be entertained at taverns &c.	532	
Free, fund for,	612, 649, 660	
SCIRE FACIAS —When had &c. after interlocutory judgment by executors and administrators,	163	
Costs on,	169	
By administrator <i>de bonis non</i> ,	175	
On judgment on bond with special condition,	305	
Against garnished,	359	
Limitation of <i>scire facias</i> on judgment,	411	
Service of,	692	
Against criminals in state prison,	731	
SCROLL —When valid as a seal,	305	
SEAL —When scroll sufficient,	305	
Of chancery and secretary of state,	613	
SECOND CONVICTION —Its effect,	263	
SECOND DELIVERANCE —See <i>Replevin</i> ,	213	

	Page
SES	
SECRETARY OF STATE —Penalty for not issuing commissions, or taking unlawful fees,	54
Bond, duties, removal, impeachment, fees, residence,	229
To record bond of keeper of state prison,	325
—— county and township lines,	353
Duty respecting books and papers of auditor's office,	398
To settle accounts of forfeited estates,	3
Clerk of the court of appeals,	394
To prosecute clerks for delinquencies,	451
— record deeds &c.	460
Fees,	482, 501
Duty respecting fines &c., and moneys paid to treasurer,	3
Seal,	613
To make index to deeds,	749
— distribute laws,	752
— be register,	776
SECURITY —For costs, when given in chancery,	495
Trustee of school fund,	649
When to sue for money due state,	700
Duty and fees in printing and keeping the public laws,	727
SELF-DEFENCE,	262
SEINS —In South-River,	520
— In Delaware,	541
SENATORS —Of United States, how appointed, and vacancies supplied,	106
Not to hold certain offices,	208
When chosen,	571
SENTENCE —Of death, how suspended,	796
SERGEANT —Of militia, when to be paid,	711
SERVANT —See <i>Poor</i> ,	36
Embezzling goods, punished,	253
How bound, remedy for ill usage,	366
When sentenced to work-house,	443
Children of disorderly persons, to be bound,	473
Age in indenture, not conclusive,	669
SESSIONS —Duty under act respecting poor,	36
Constitution, authority, jurisdiction,	142
How to proceed on recognizances and where to send indictments,	143
Jurisdiction as to crimes,	3
Duty respecting bastard children,	171
— as to taverns,	281
To recommend pedlers,	294
— strike juries,	313

	Page.
SESSIONS ---When and where held,	364, 606, 660
Hear appeal from order of justices, between master and servant,	367
Duty under act to suppress vice &c.	383
<i>Certiorari</i> to remove indictments,	406
May order tales,	455
Send subpoenas to other counties,	463
Fees,	489
In Cumberland, when held,	532
Duty respecting navigation and fishery of Delaware,	541
To grant commissions to take depositions,	546
In Trenton, constitution and times of holding,	606
Of Essex, when held,	660
Clerk to give bond,	714
SETTLEMENT ---See <i>Poor</i> ,	35
See <i>Slaves</i> ,	375
Of black children,	765
SET-OFF ---See <i>Mutual dealers</i> ,	305
See <i>Promissory notes</i> ,	396
<i>Practice</i> ,	421
<i>Court for small causes</i> ,	633
SHELL-FISH ---Preservation &c.	757
SHEEP ---See <i>Fences</i> ,	387
How marked,	746
Means to preserve,	754, 796
SHEET ---One hundred words,	481
SHERIFF ---May act before commissioned,	54
Misprisions, when amendable,	138
Proclaim and attend oyer and terminer,	153
To keep prisoner committed in action of account,	157
— serve process in prerogative court,	179
When to pay year's rent,	187, 666
Duty in serving <i>habeas corpus</i> ,	193
To swear appraisers of distrained goods,	200
Duty as to fines and amercements,	210
— in replevin,	212
Who may be, his bond, oath, duties &c.	236, 303, 671, 715
Not to be justice of peace,	243
Escapes in criminal cases,	256
Duty as to riots,	280
Not to be tavern-keeper,	283
Duty on recognizances of tavern-keepers,	286
— in writ of partition,	301
Election of successor,	303
How property sold after levy, if sheriff die or remove,	ib.

SLA		Page
	SHERIFF —When and how to appoint substitute and under-sheriff,	303
	How to summon grand juries,	311
	Not to excuse jurors for reward,	312
	Duty in cases of view,	312
	To make list, annually, of persons qualified to be jurors,	313
	Duty in removing criminals to state prison,	330
	— forcible entry and detainer,	352
	See <i>Attachment</i> ,	355
	Duty respecting slave trade,	373
	May not be bail,	404
	Limitation of suit on bond,	416
	Duty in serving process,	416
	Rule to bring in body and filing special bail,	420
	When called on to produce body,	429
	Duty in serving executions,	431
	— where juror refuses oath of allegiance,	442
	To return process to circuit court,	455
	— collect fines of defaulting jurors,	456
	— keep United States prisoners,	457
	Duty in collecting taxes,	465
	Fees,	484-8
	Duty in serving process in chancery,	495, 706
	— under act to support jurisdiction of state,	533
	To return juries inoyer and terminer without precept,	656
	See <i>Repeal of act</i> ,	669
	When to sell lands before goods,	671
	To advertise lands in newspapers four weeks,	730
	— pay jurors and witnesses in criminal cases,	730
	— fines to county collector,	730
	Duty in preserving shell-fish,	758
	Officer of orphans' court,	787
	Fees in orphans' court,	790
	SHEWS —Not to be performed without license,	382
	SHOP-KEEPER —Not to keep tavern,	283
	SHREWSBURY —Bounds of,	509
	SIGNS —Of taverns,	745
	SILVER COIN —Counterfeiting,	738
	SINGLE BILL —See <i>Payment pleaded</i> ,	306
	SISTERS —How to inherit,	608
	SLANDER —Limitation of action for,	410
	Not cognizable before justice,	629
	SLAVE —When corporal punishment inflicted,	262
	Who, treatment, manumission, competency as witness,	369
	Settlement, when pauper,	375

INDEX.

869

	Page.	STA
SLAVE---See <i>Habeas corpus</i> ,	376	
When sentenced to work-house,	443	
Gradual abolition of slavery,	679	
Treatment and manumission,	680	
How removed and transported,	682	
--- held by persons not inhabitants,	<i>ib.</i>	
For what crimes to be transported,	736	
How children obtain settlement,	765	
Sentenced to state prison,	793	
SLAVERY---Gradual abolition of,	679	
SLAVE TRADE---Punishment of,	372	
SMALL CAUSES---Court for,	629	
SLUICES---In tide swamps repaired &c.	529, 655	
SOCIETIES---To promote learning, incorporated,	154	
SODOMY---Not bailable by justice, sessions, nor tried there,	144	
Defendant to have copy of indictment and list of jury,	184	
Punishment,	246	
Excludes witness,	462	
SOLDIERS---How to make will,	228	
SOLICITOR---Punished for mal-practice or mismanagement,	414	
Oath, and how administered,	440	
Fees,	462	
SOMERSET---Bounds of,	3, 6, 18, 19, 107	
Courts of,	364, 453	
SORCERY---Punishment,	248	
SOUTH-RIVER---Fishery regulated,	520	
SPEAKER---Of assembly, trustee of school fund,	649	
Duty where vacancy in assembly,	741	
SPECIAL BAIL---Who may be,	404	
When, and by whom filed,	416	
--- plaintiff may proceed on bail bond, or rule sheriff,	<i>ib.</i>	
Proceeding against, after return of <i>ca. sa.</i>	424	
How proceeding arrested on error by principal,	<i>ib.</i>	
On <i>habeas corpus</i> ,	<i>ib.</i>	
SPIRITUOUS LIQUORS---When not to be sold &c. at vendues,	271	
See <i>State prison</i> ,	330	
When sold at trainings,	592	
SPRINGFIELD---Bounds,	133, 134, 544, 559	
STAGES---Not to be driven on Sunday,	380	
STATE---Substituted for colony,	52	
Forfeit to, under statute of frauds and perjuries,	149	

SUF	STATE—As grant of land allodial, To recover, but not pay costs, Right of challenge in criminal cases, Style of action to recover money,	Pag. 166 171 165 699
	STATE PRISON—Regulated, When accounts rendered, To receive and keep United States' prisoners, Inspectors appointed,	325 547 659 795
	STATE OF DEMAND—See <i>Court for small causes</i> ,	632
	STATUTES—When to be in force, Of Great-Britain, Where kept, and how given in evidence,	726 2. 2.
	STEAM-BOAT—Protected &c. Passengers taxed &c.	547, 564, 689 657
	STEALING—Goods, punishment &c. Goods under \$ 10, how punished, \$ 20, ————— Fines to be paid to county collector,	254, 260 448 735, 739 735
	STOCKS—See <i>Vice and immorality</i> ,	381
	STOCK, LIVE—Market for, in New-Brunswick, In counties,	513 522
	STOLEN GOODS—Receiving, punishment,	261
	STORE-KEEPER—Not to entertain &c. boys at school &c.	532
	STOW CREEK—Bounds,	554
	STRAITS—Regulations concerning,	288
	STUDENTS—Of colleges &c. not to be entertained at taverns,	532
	STRUCK JURY—When and how struck, and costs paid, When venire and list delivered to sheriff,	310 560
	STURDY BEGGARS,	763
	STYLE OF ACTION—To recover money for state,	699
	SUBMISSION—To arbitration, how made, and effect,	159
	SUBORNATION—Of perjury, not tried in sessions, Punishment,	143 249
	SUBPENA—For witness before referees, In forcible entry and detainer, —chancery, how served, To hear judgment, omitted, For witness before arbitrators,	160 362 495 501 654
	SUBSTITUTE—See <i>Militia</i> ,	569, 594, 711
	SUFFRAGE—Who have right of,	741

	Page.	
SUMMONS ---In forcible entry and detainer,	350	SUR
When and how served and returned,	415, 691	
How served in court for small cause,	630	
Fees for serving, by constable,	772	
SUNDAY ---See <i>Sabbath</i> ,	378	
SUPERSEDEAS ---Attachment from supreme court and court of common pleas, to one from justice,	363	
When writ of error to execution,	424	
SUPREME COURT ---Appoint commissioners to take bail &c.	135	
Make rules for justifying bail, before commission- ers,	136	
To try treason committed out of state,	186	
— examine proceedings of justices, who put land- lord in possession,	191	
Grant leave to file information &c.	206	
Exclusive cognizance of suits on sheriffs' bonds,	238	
— jurisdiction of partition,	302	
Jurisdiction,	308	
When and how to strike juries,	313	
To appoint commissioners to ascertain county lines,	353	
Jurisdiction respecting slave trade,	373	
Cognizance of dower,	398	
Errors, where corrected and how to correct errors of pleas,	402	
See <i>Practice</i> ,	413	
Official oath,	443	
By whom, when and where held,	453	
Issues in, where tried,	<i>ib.</i>	
May order foreign juries,	<i>ib.</i>	
Tales,	<i>ib.</i>	
Justices to hold circuits,	454	
Special oyer and terminer,	456	
Duty respecting taxes,	465	
Fees,	484	
Number of justices,	528	
Duty respecting roads,	619	
To issue writ of attachment into two counties,	734	
Causes removed to, from orphans' court, by <i>cer-</i> <i>tiorari</i> ,	786	
SURETY ---For the peace, court may order,	263	
Of constable, to sue for, and appropriate money he ought to have collected,	656	
— assignee of debtor to settle accounts,	674	
SURRENDER ---Of chief lease, effect on under leases,	192	
Of defendant, to discharge bail,	419	
See <i>Special bail</i> ,	524	
SURROGATE ---To remove papers to offices,	525	
Offices,	<i>ib.</i>	

TAX		Page
	SURROGATE —Not to be clerk,	714
	One in each county,	777
	Duties,	782
	Oath, bond,	765
	To put up copy of fees in his office,	768
	Not to act as attorney in orphans' court,	76
	To hand papers, books &c. to successor,	789
	Fees,	76
	SURROGATE-GENERAL —To hold appeal on assignment of dower,	677
	When to order division of estate,	780
	SURVEYS —Of proprietary rights, when recorded and given in evidence,	17
	What to bar proprietaries,	81
	— require six months' notice to landholder,	104
	See <i>Swamps</i> ,	128
	SURVEYOR-GENERAL —When and how to keep office and records, and collect books of surveys, maps &c.	17
	SURVEYOR OF HIGHWAYS —Duty in making ditches &c. to drain meadows, and make allotment among owners,	128
	See <i>Roads</i> ,	615
	In Cape-May, number &c.	725
	SUSSEX —Bounds,	15
	Representation in,	299
	Courts,	364, 453
	See <i>Act to preserve sheep</i> ,	796
	SWAMPS —How to be drained,	128
	Tide, improvement of,	529, 655
	SWEARING —Punishment of,	381
	SWINE —Regulations respecting,	377
	TAIL —Estate in,	774
	TAIL RACES —How opened and cleared,	612
	TALES —Awarded by circuit, supreme court, oyer and terminer, and sessions,	455
	Fined for default,	76
	Awarded by common pleas,	604
	TAVERN —Law to license, regulate &c.	281
	Keeper to lose debt if he trusts, in certain cases, more than two dollars,	76
	Sheriff or under sheriff not to keep,	283
	Sign, rates,	284
	Not to entertain boys at school &c.	532
	— be kept by justice,	644
	License and sign,	744
	TAX —See <i>Manufactures at Paterson</i> ,	108

	Page.	THR
TAX ---Replevin will not lie in case of,	216	
By chosen freeholders,	317	
For building work-house,	444	
To be in dollars, dismes and cents,	446	
How assessed and collected,	465	
On bank stock,	546	
For roads,	622	
TAXABLE PROPERTY ---Designated,	511	
TAXATION ---Appeals in cases of,	308	
By chosen freeholders,	319	
Of costs,	493	
In orphans' court,	787	
TENANCY ---In common, how land divided,	89	
In common, what shall be,	557	
TENANT ---Holding over, pay double rent,	188	
Giving notice to quit, and refusing,	<i>ib.</i>	
Deserting premises,	191	
When attornment by, void,	192	
Duty on receiving declaration in ejectment,	<i>ib.</i>	
Who may not commit waste,	208	
See <i>Waste</i> ,	209	
After partition,	302	
When to pay tax for landlord,	471	
By curtesy, not affected by law respecting descent of lands,	609	
See <i>Forcible entry and detainer</i> .		
TENANTS ---In common, land divided,	89	
In common, sued in account,	157	
See <i>Waste</i> ,	209	
Compelled to make partition, and how,	299	
Who,	557	
Shares allotted when partition cannot be made,	597	
TENDER ---Of money in suit on mortgage,	162	
TENURES ---Of land, free and common socage,	166	
Wardships, fines, knight service &c. taken away,	167	
Granted by state, allodial,	168	
TERMS ---Ancient terms and forms of pleadings not to prejudice,	138	
TESTATOR ---See <i>Lands sold by execution</i> ,	436	
When contracts respecting lands executed,	524	
Name recorded,	728	
TESTAMENTARY GUARDIAN ---Appointment and duties,	227	
TESTAMENTARY LETTERS ---Form &c.	782	
TESTE ---See <i>Error</i> ,	166	
THREATENING LETTERS ---Punishment,	259	

TOW

TICKETS —Election may be either written or printed,	741
TIDE BANKS, LANDS, MARSH, MEADOW, SWAMPS.	
To be banked in, secured &c.	82, 655
Improvement of,	529, 655
TIMBER —See <i>Trees</i> ,	625
Waste of,	700
TIPPLING HOUSE,	745
TITLE —To lands, where tried,	310
Not tried in forcible entry and detainer,	352
_____ in court for small causes,	629
How pleaded in court for small causes,	639
If judge certifies that it came in question, plaintiff has costs,	666
TITLE OF NOBILITY —Not to be accepted,	549
TOLL —Of millers, regulated,	446
Of militia-men,	586
TOLL-BRIDGE —See <i>Bridge</i> ,	366
When not to be passed faster than a walk,	600, 672
TOWN CORPORATE —How affected by tavern act,	287
TOWN CLERK —See <i>Poor</i> ,	35
See <i>Vagrants</i> ,	46
Duty at elections,	274
_____ as to estrays,	298
See <i>Townships</i> ,	340
Duty respecting pounds,	302
_____ in registering births and deaths,	446
_____ the election of electors and representa-	
tives,	534
To file constable's bond,	645
Not to be candidate at election,	741
To provide election boxes,	744
Duty in distributing laws,	752, 770
TOWN COMMITTEE,	341
Duty respecting fences,	387
_____ roads,	619
See <i>Constable's bond</i> ,	645
Duty respecting tax on dogs,	756
TOWN-MEETINGS —When and how held, powers &c.	339, 725
In Trenton, when held,	607
Duty as to roads,	625
Raise money to educate poor children,	725
To tax dogs;	754
TOWN OFFICE —Who excused from serving in,	725
TOWNSHIP —Boundaries, 25, 27, 56, 128, 133, 134, 270, 287,	
315, 316, 331, 394, 504, 509, 510, 513, 518, 520,	
526, 527, 529, 539, 544, 554, 559, 661	

	Page.	TRE
TOWNSHIP ---How to support and be relieved from support		
of bastard children,	171, 174	
Meaning of,	309, 324, 355	
How liable for collector,	322	
Lines ascertained,	353	
When to support slaves,	375	
Liable for taxes squandered by collector and con-		
stable,	470	
Fined for bad roads,	621	
To build poor-house,	695	
Incorporated and regulated,	332, 723	
TOWNSHIP COLLECTOR ---Duties, bond &c.	322, 723	
Election oath,	342	
Duty under act respecting slaves,	372	
--- in collecting taxes,	465	
--- distributing laws,	770	
TRACK ---Of carriages,	79	
TRADE ---Acts restraining, repealed,	54	
Free, (See <i>Perth-Amboy</i> .)	61	
See <i>Burlington</i> ,	70	
TRAINING ---Regimental, in Cumberland,	578	
Of officers,	709	
TRANSCRIPT ---For trial at circuit,	454	
Of wills, when evidence,	789	
TRAPS ---See <i>Game</i> ,	26	
TRAVELLING ---On Sunday,	378	
Persons to keep to the right,	568	
Money not to be extorted by overseers &c.	624	
TREASON ---Punishment of,	51	
Not bailable by justices or sessions, nor tried there,	144	
Copy of indictment and list of jury and witnesses,	184	
Of what, evidence may be given,	ib.	
Out of state, where tried,	186	
Nature and punishment,	244	
Excludes witness,	462	
TREASURER ---To receive money from United States,	273	
Oath, security and duties,	427, 446	
Duty respecting amercements, fines and forfeit-		
ures,	451, 500, 501	
Duty in collecting taxes,	465	
--- respecting tax on bank stock and state pri-		
son accounts,	546-7	
How to invest public money,	600, 604	
Duty respecting school fund,	613, 660	
When to pay for bringing back fugitives,	652	
Duty under act to tax steam-boat-passengers,	657	
When to sue for money due state,	700	
To distribute laws,	752, 770	

UNI		Page.
	TREATY---With Great-Britain,	82
	TREBLE COSTS---Under act to maintain bastard children,	173
	TREBLE DAMAGES---For pound breach or rescue of distrained goods,	202
	TREES---Not to be girdled near the public road,	423
	TRENTON---Permanent seat of government,	108
	Incorporated,	125, 536
	Residence of secretary of state,	231
	Sessions constituted,	606
	Town-meetings,	607
	Independent battalion,	728
	TRESPASS---Limitation of,	410
	See <i>Act to support jurisdiction of the state</i> ,	689
	TRIAL---See <i>Indictment</i> .	
	By wager of law, abolished,	183
	— proviso,	422
	When to be had, notice, countermand,	422, 693
	Of issues in supreme court,	453
	At bar,	ib.
	See <i>Court for small causes</i> ,	633, 798
	TROVER---Limitation of,	410
	TRUSTS---Declaration, grants, assignments of trust of land, how made,	151
	TRUSTEE---See <i>Infant</i> ,	168
	Of College of New-Jersey,	448
	— religious society,	475
	— corporation dissolved, who and their powers,	610
	— school fund,	649, 660
	— literary society,	751
	TURNPIKE---Keep to the right,	568
	TUMULTUOUS ASSEMBLIES,	262, 279, 735
	UNDER-SHERIFF---Duty as to riots,	280
	Not to be tavern-keeper,	283
	Duty in writ of partition,	301
	Appointment, oath, removal &c.	304
	May not be bail,	404
	UNIFORM---See <i>Militia</i> ,	587, 710
	UNIFORM COMPANY,	588, 595
	UNION---Bounds,	539
	UNINCORPORATED BANKS,	573
	UNITED STATES---Constitution amended,	82, 94, 518, 549
	Jurisdiction over Sandy-Hook,	107
	Money from, how received,	275

	Page.	VOL
UNITED STATES---Prisoners, how kept,	457, 659	
Laws distributed,	752	
UNLAWFUL ASSEMBLY---Punishment,	262, 735	
Law to prevent,	279	
UNLAWFUL DETAINER---What &c.	349	
UNWHOLESOME PROVISIONS---Sale of,	735	
UPPER FREEHOLD---Bounds,	25	
USE---Effect of conveying use of lands,	9	
USE AND OCCUPATION---Action for,	187	
USURY---What, effect, punishment,	269	
VACANCIES---In legislature, how supplied,	279, 741	
In electors of president, how supplied,	534	
— militia appointments,	586	
VAGABONDS---Who, and how treated,	48, 763	
VAGRANTS---Who, and how treated,	48, 473, 763	
VENDUE---When spirituous liquors not to be sold,	271	
VENIRE FACIAS---To what county awarded,	310	
For circuit court,	454	
— struck jury, when to be delivered to sheriff,	560	
In court for small causes,	633	
Not necessary in oyer and terminer,	658	
VERDICT---Defects cured by,	138	
On obligations and between mutual dealers,	307	
See <i>Juries</i> ,	310	
Where some counts bad,	314	
In detinue,	ib.	
— forcible entry and detainer,	350	
Special, entered on minutes, and argued,	425	
To be in dollars, dismes and cents,	446	
VESSELS---Fitted out for slave trade,	372	
Infected,	502	
Not to obstruct fishery and navigation in Dela-		
ware,	545, 571	
When not to enter Perth-Amboy,	557	
In distress, by whom to be entered,	717	
VICE---Statute respecting,	378	
See <i>Religious worship</i> ,	552	
VICE-PRESIDENT---Of United States, how elected,	518	
Of council, trustee of school fund,	649	
——— duty where vacancy in council,	741	
VIEW---When ordered, and how taken,	312	
VOLUNTEERS---See <i>Militia</i> ,	595	

WHE	VOTE---Right to, When to be given,	Page. 741 742
	VOTER---Who, and how to vote,	741-2
	VOUCHER---In writs of formedon, (See <i>Frauds and Perjuries.</i>)	151
	WAGER---On gaming, void,	261
	On horse-racing, void,	550
	WAGER OF LAW---How far abolished,	183
	WAGGONS---Width of track,	79
	WARDSHIPS---Taken away,	167
	WARRANT---Issued in one county, endorsed in another,	145
	For new election on vacancy in legislature,	279
	Of distress for taxes,	466
	How served in court for small causes,	630
	WARRANT OF ATTORNEY---Not to be included in bond,	415
	When judgment on, to be entered,	ib.
	By persons in custody,	ib.
	Irrevocable,	ib.
	How judgment to be entered,	696
	WARRANTY---Of tenant for life, when void,	461
	Collateral, when void,	463
	WARREN---Bounds,	527
	WASHINGTON---Bounds of,	316, 394, 513
	WASTE---See <i>Partition</i> ,	89
	<i>Executors and Administrators</i> ,	174
	Who liable, and proceedings in,	206
	After injunction,	496
	Of timber,	700
	WATERWORKS---In tide swamps &c.	529, 655
	Races to, how opened and cleared,	612
	WATERCOURSES---In tide swamps,	529, 655
	WAIVER---Of bail,	420
	WESTFIELD---Bounds,	133, 520
	WEST-WINDSOR---Bounds,	271
	WEYMOUTH---Bounds,	316, 559
	WHIPPING---Vagrants,	48
	In certain cases of larceny,	735
	Criminals refusing to leave state according to terms of pardon,	738
	WIDOWS---Power to bequeath,	228
	Right, where land lost by default of husband,	347
	See <i>Dower</i> ,	397
	Pensions, how paid,	514
	When to pay rent,	677, 679
	WHEEL CARRIAGES---Width of track,	71

WIFE —Of insolvent debtor, examined on interrogatories,	Page. 221	WOO
WILLS —How executed and proved before and after the 17th of March 1714,	7	
Made in Great-Britain, Ireland and colonies, cer- tified and proved,	8	
Made by letters of attorney,	ib.	
Construction of, in certain cases,	60	
See <i>Partition</i> ,	89	
Administration with will annexed,	180	
What, who may make, and of what,	223	
Nuncupative,	228	
Written, how revoked,	ib.	
How soldiers and marines may make,	ib.	
Of personal estate, to be recorded,	229	
Slave manumitted by,	374	
Devising lands to executors, how executed,	605	
Where filed, and testators' names recorded,	728	
Who to grant probate &c.	776	
How proved, recorded &c.	782	
Transcripts, when evidence,	789	
WITCHCRAFT —Punishment,	248	
Charge of, no ground of action,	ib.	
WITNESSES —Fees,	91, 492, 646	
Recognizance of, in criminal cases,	143	
To appear before referees by process,	160	
List of, to criminals,	184	
Who may prove will,	226	
To nuncupative wills,	228	
On inquisitions examined and bound,	234	
How juror to be,	314	
In forcible entry and detainer,	352	
Slave, when competent,	369	
Oath and affirmation,	429	
How examined by commissioner,	437, 546	
Who may be, and how protected and punished,	562	
See <i>Court Martial</i> ,	593	
<i>Court for small causes</i> ,	629	
Subpœnaed and sworn before arbitrators, and punishable for perjury,	654	
Examination in chancery,	700	
How paid in criminal cases,	729	
WORK-HOUSES —Established and regulated,	443	
In Trenton,	538	
— Burlington,	558	
WOODS —Wilful firing punished,	146	
Fire, how extinguished,	147	
WOMEN —Not to be imprisoned for debt,	662	
WOOLWICH —Bounds,	661	

	Page.
WRI	
WRECKS —Proceedings regulated,	716
Proceeds, how invested,	722
WRIT —How to run,	42
When amendable,	137
In quarter-sessions, how signed, sealed &c.	143
Of formedon, (See <i>Frauds and Perjuries</i> .)	151
See <i>Error</i> ,	166
Of error, costs on,	170
— assize, damages recoverable,	183
— error in criminal cases,	186
— <i>Habeas corpus</i> ,	193
— replevin, (See <i>Replevin</i> .)	212
— second deliverance,	213
— inquiry in replevin,	215
How returned by coroners,	232
Of error by reversioner and remainderman,	348
— dower,	398
— error,	400
— inquiry for damages in error,	401
— notice of executing,	423
Of error, when supersedes execution on second judgment,	424
— error, when returned,	426
— <i>ne exeat</i> ,	496

ERRATA.

Page 91, sect. 2, line 1, for *be to*, read *to be*.

" 246, sect. 10, line 10, after *either*, insert *of*.
" 410, sect. 1, line 3, after *Trespass*, strike out the comma.

" 547, sect. 2, line 15, after *make*, strike out the comma.

" 597, sect. 1, line 3, instead of *to*, read *by*.

" 635, sect. 23, line 1, after *than*, strike out *the*.

" 638, sect. 30, line 10, for *these*, read *there*.

" 642, sect. 44, line 2, for *or be*, read *or by*.

" 667, sect. 1, line 4, the word *bill*, should read *act*, but the word *bill* is used in the original act.

" 670, sect. 1, line 4, for *for*, read *far*.

" 674, sect. 3, in lines 4 and 5, the words *creditor resides*, should read *creditors reside*, and in line 6 the word *assignee*, should read *debtor*, but the words are in the original law as they stand here.

" 747, sect. 2, line 9, the word *and*, should read *or*, but the word *and*, is used in the original act.

Page 765, sect. 6, line 13, for *or*, read *of*.

" 776, sect. 3, line 12, after the word *them*, the words, *knowing him, her, them or any of them*, it is presumed should be inserted, but they are not contained in the original law.

" 780, sect. 12, line 12, strike out the (,) after *court*, and insert it after *made*.

" 780, sect. 13, line 19, strike out the (,) after *court*, and insert it after *made*.

" 784, sect. 27, there should be a blank after *admitted*.

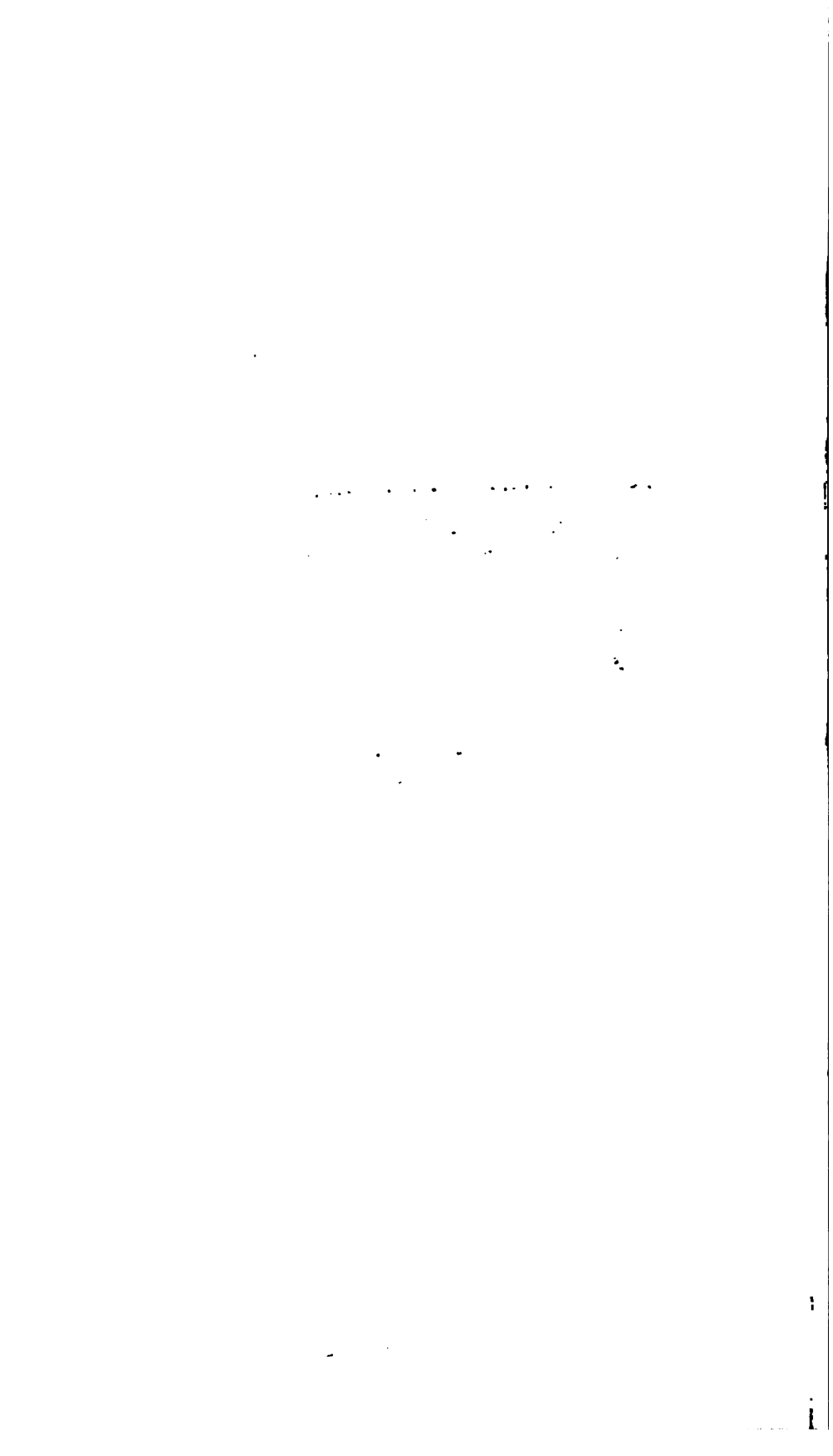
" 797, sect. 3, line 26, the word *Judgment*, should be *Judges*, but it stands in the original law as here.

" 798, sect. 5, line 2, after *court*, strike out the comma.

The acts referred to in the notes, p. 153 and 662, were repealed after those notes were printed, and are not, therefore, contained in this edition.

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